

# HB0106S01 compared with HB0106

~~{deleted text}~~ shows text that was in HB0106 but was deleted in HB0106S01.

inserted text shows text that was not in HB0106 but was inserted into HB0106S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Bradley M. Daw proposes the following substitute bill:

## ELECTRONIC MEETINGS REVISIONS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley M. Daw**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies provisions of the Open and Public Meetings Act relating to electronic meetings.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{deletes the requirement that}~~ establishes a pilot program for charter schools to conduct electronic meetings ~~{have an anchor location;}~~ that:

~~{}~~ ~~{requires a public body to conduct any}~~ establish time limits on the  
electronic meeting ~~{that does not~~  
~~have an anchor location in a~~  
~~manner so that the public may~~

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~~attend, monitor, and participate in  
the meeting;~~

~~requires};~~

- ~~• prohibit closed meetings; and~~
- ~~• provide a method for public notice and participation; and~~
- ~~• require new notice to be given each time a topic to be considered at an electronic meeting has not been listed as an agenda item;~~
- ~~▶ establishes reporting requirements to the Public Utilities and Technology Interim Committee; and~~
- ~~▶ makes technical changes.~~

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{ 52-4-103, as last amended by Laws of Utah 2007, Chapters 35 and 45~~

~~‡ 52-4-207, as last amended by Laws of Utah 2007, Chapter 45~~

### ENACTS:

~~52-4-209, Utah Code Annotated 1953~~

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section ~~{52-4-103}~~52-4-207 is amended to read:

~~{ 52-4-103. Definitions:~~

~~As used in this chapter:~~

~~(1) "Anchor location" means the physical location from which:~~

~~(a) an electronic meeting [originates] may originate; or~~

~~(b) the participants are connected.~~

~~(2) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.~~

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~~—— (3) (a) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.~~

~~—— (b) "Electronic meeting" may include, provided that the requirements of a meeting under Subsection (4) are met, one or more communications conducted by instant messaging, electronic chat, or the transmission of an electronic or written communication between members of a public body.~~

~~—— (4) (a) "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power:~~

~~—— (b) "Meeting" does not mean:~~

~~—— (i) a chance meeting;~~

~~—— (ii) a social meeting; or~~

~~—— (iii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:~~

~~—— (A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or~~

~~—— (B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.~~

~~—— (5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.~~

~~—— (6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.~~

~~—— (7) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:~~

~~—— (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;~~

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- ~~—— (ii) consists of two or more persons;~~
- ~~—— (iii) expends, disburses, or is supported in whole or in part by tax revenue; and~~
- ~~—— (iv) is vested with the authority to make decisions regarding the public's business.~~
- ~~—— (b) "Public body" does not include a:~~
  - ~~—— (i) political party, political group, or political caucus; or~~
  - ~~—— (ii) conference committee, rules committee, or sifting committee of the Legislature.~~
- ~~—— (8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.~~
- ~~—— (9) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.~~
- ~~—— (b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.~~
- ~~—— (10) "Recording" means an audio, [or] an audio and video, or a complete verbatim and graphical record of the proceedings of a meeting that can be used to review the proceedings of the meeting.~~

~~—— Section 2. Section 52-4-207 is amended to read:~~

‡ **52-4-207. Electronic meetings -- Authorization -- Requirements.**

(1) [A] Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the

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electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; ~~{ } { }~~

~~(v) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if it were not holding an electronic meeting;~~

~~(vi) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting;~~

~~(vii) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the meeting in a manner that affords them access to all of the records of the meeting; and~~

~~{ } { } (viii) or~~

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall ~~{ } { }~~

(a) ~~{ } { }~~ give public notice of the meeting:

~~{ } { } (i) { } (a) { }~~ in accordance with Section 52-4-202; and

~~{ } { } (ii) post written notice at the anchor location; { } { }~~

~~{ } { } (b) in addition to giving public notice required by Subsection (3)(a), provide: { } { }~~

~~{ } { } (i) notice of the electronic meeting { } { }~~

~~(b) { } to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present { } { } and { } { };~~

~~(4) Public notice under Subsection (3) shall:~~

~~{ } { } (ii) (a) include { } { }; and~~

(ii) a description of how the members ~~{ of the public body }~~ will be connected to the electronic meeting ~~{ } { } { } { } and { } { }~~

~~{ } { } (c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting; { } { }~~

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~~ff~~(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and~~ff~~

~~ff~~(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.~~f~~

~~\_\_\_\_\_ (b) be given each time a topic to be considered at an electronic meeting has not been listed as an agenda item on the meeting agenda as required in Subsection 52-4-202(6):~~

~~\_\_\_\_\_ (5) If there is no anchor location designated for the electronic meeting, the public body:~~

~~\_\_\_\_\_ (a) shall conduct the electronic meeting so that interested persons and the public may attend, monitor, and participate in the electronic meeting in a manner that affords them access to all of the records of the meeting; and~~

~~\_\_\_\_\_ (b) may not close a meeting as otherwise allowed under this part.~~

~~\_\_\_\_\_ (6) (a) Written minutes and a recording shall be kept of all electronic meetings as required in Section 52-4-203:~~

~~\_\_\_\_\_ (b) Written minutes are the official record of action taken at the electronic meeting as provided in Section 52-4-203:~~

~~\_\_\_\_\_ (c) Notwithstanding Subsection 52-4-203(3), the secretary of a public body conducting an electronic meeting shall delete from a recording any:~~

~~\_\_\_\_\_ (i) pornographic material, as defined in Section 76-10-1203; and~~

~~\_\_\_\_\_ (ii) obscene material, as defined in 20 U.S.C. Sec. 9101:~~

~~\_\_\_\_\_ [(4)] (7)}~~

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

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### **Legislative Review Note**

~~\_\_\_\_\_ as of 1-11-11 2:35 PM~~

## HB0106S01 compared with HB0106

~~Office of Legislative Research and General Counsel~~ Section 2. Section 52-4-209 is enacted to read:

### 52-4-209. Electronic meetings for charter schools -- Pilot program.

(1) As used in this section, "charter school" means a school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act.

(2) The Electronic Meetings for Charter Schools Pilot Program is created to pilot the development and implementation of electronic meetings for charter schools.

(3) Beginning May 10, 2011 and ending May 8, 2012, a charter school may convene and conduct an electronic meeting in accordance with this section.

(4) A charter school that conducts an electronic meeting under this section shall:

(a) give public notice of the electronic meeting:

(i) in accordance with Section 52-4-202; and

(ii) post written notice at the anchor location as required under Section 52-4-207;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the charter school at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;

(ii) a description of how the members will be connected to the electronic meeting; and

(iii) a start and end time for the meeting, which shall be no longer than 24 hours; and

(c) provide space, facilities, and technology in the building where the charter school board would normally meet if they were not holding an electronic meeting so the public may attend, monitor and participate in the meeting during regular business hours.

(5) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.

(6) Written minutes and a recording shall be kept of an electronic meeting conducted as required in Section 52-4-203.

(7) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.

(8) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

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(9) A charter school that conducts an electronic meeting under this section shall report to the Public Utility and Technology Interim Committee by October 1, 2011, as to the effectiveness of conducting business via electronic meetings under this section.