

**Representative Kraig Powell** proposes the following substitute bill:

**OPEN AND PUBLIC MEETING ACT NOTICE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

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

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**LONG TITLE**

**General Description:**

This bill modifies the Open and Public Meetings Act by amending public notice requirements.

**Highlighted Provisions:**

This bill:

- ▶ if the need for a meeting is known at least 72 hours in advance, requires a public notice of not less than 72 hours for each public meeting and provides that the public notice include an agenda on which all items then planned to be discussed at the meeting are listed;

- ▶ provides that the 24 hour public notice requirement is satisfied if no additional items are added to the agenda;

- ▶ provides exceptions for legislative meetings held for any special session, extraordinary session, or veto override session, or during the period of time beginning seven days before a general session and ending on the last day of the general session;

- ▶ prohibits a court from voiding a final action taken by a public body for failure to comply with the 72 hour public notice requirements; and

- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **52-4-202**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

33 **52-4-302**, as last amended by Laws of Utah 2012, Chapter 403



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

36 Section 1. Section **52-4-202** is amended to read:

37 **52-4-202. Public notice of meetings -- Emergency meetings.**

38 (1) ~~[A]~~ Except as provided under Subsection (5), a public body shall give not less than  
39 24 hours public notice before the scheduled start time of each meeting including the meeting:

- 40 (a) agenda;
- 41 (b) date;
- 42 (c) scheduled start time; and
- 43 (d) place.

44 (2) (a) ~~[In]~~ Except as provided in Subsection (2)(c) or (d), in addition to the  
45 requirements under Subsection (1), a public body ~~[which]~~:

46 (i) if the need for a meeting is known at least 72 hours before the scheduled start time  
47 of the meeting, shall give not less than 72 hours public notice before the scheduled start time of  
48 each meeting and include in the public notice, an agenda on which all items planned to be  
49 discussed at the time of the public notice, are listed; and

50 (ii) that holds regular meetings that are scheduled in advance over the course of a year  
51 shall give public notice at least once each year of its annual meeting schedule as provided in  
52 this section.

53 (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of  
54 the scheduled meetings.

55 (c) A public notice required under Subsection (1) is satisfied by the public notice given  
56 under Subsection (2)(a)(i), if no additional items are added to the agenda. ~~H~~→ **A public body may**  
56a **amend an agenda posted under Subsection (2)(a)(i) by posting a revised agenda under**  
56b **Subsection (1).** ~~←H~~

57 (d) The additional public notice requirements under Subsection (2)(a)(i) do not apply to  
58 a public body within the Legislature for a meeting held:

59 (i) for, or during, any special session, extraordinary session, or veto override session; or

60 (ii) during the period of time beginning seven days before a general session and ending  
61 on the last day of the general session.

62 (3) (a) Public notice under this section shall be satisfied by:

63 (i) posting written notice:

64 (A) at the principal office of the public body, or if no principal office exists, at the  
65 building where the meeting is to be held; and

66 (B) [~~beginning October 1, 2008 and~~] except as provided in Subsection (3)(b), on the  
67 Utah Public Notice Website created under Section 63F-1-701; and

68 (ii) providing notice to:

69 (A) at least one newspaper of general circulation within the geographic jurisdiction of  
70 the public body; or

71 (B) a local media correspondent.

72 (b) A public body of a municipality under Title 10, Utah Municipal Code, a local  
73 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a  
74 special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged,  
75 but not required, to post written notice on the Utah Public Notice Website, if the municipality  
76 or district has a current annual budget of less than \$1 million.

77 (c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by  
78 providing notice to a newspaper or local media correspondent under the provisions of  
79 Subsection 63F-1-701(4)(d).

80 (4) A public body is encouraged to develop and use additional electronic means to  
81 provide notice of its meetings under Subsection (3).

82 [~~(5)(a) The notice requirement of Subsection (1) may be disregarded if:~~]

83 (5) (a) A public body is not required to comply with the notice requirements described  
84 in Subsections (1), (2), and (3) if:

85 (i) because of unforeseen circumstances it is necessary for a public body to hold an  
86 emergency meeting to consider matters of an emergency or urgent nature; and

87 (ii) the public body gives the best notice practicable of:

88 (A) the time and place of the emergency meeting; and

89 (B) the topics to be considered at the emergency meeting.

90 (b) An emergency meeting of a public body may not be held unless:

91 (i) an attempt has been made to notify all the members of the public body; and

92 (ii) a majority of the members of the public body approve the meeting.

93 (6) (a) A public notice that is required to include an agenda under Subsection (1) and

94 (2) shall:

95 (i) provide reasonable specificity to notify the public [as to the topics] of each item to  
96 be considered at the meeting[. Each topic shall be listed under an agenda item]; and

97 (ii) list each item on the meeting agenda.

98 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding  
99 member of the public body, ~~[a topic]~~ an item raised by the public may be discussed during an  
100 open meeting, even if the ~~[topic]~~ item raised by the public was not included in the agenda or  
101 advance public notice for the meeting.

102 (c) Except as provided in Subsection (5), relating to emergency meetings, a public  
103 body may not take final action on ~~[a topic]~~ an item in an open meeting unless the ~~[topic]~~ item  
104 is:

105 (i) ~~listed [under an]~~ on the agenda [item] as required by Subsection (6)(a); and

106 (ii) included with the advance public notice required by this section.

107 Section 2. Section **52-4-302** is amended to read:

108 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

109 (1) (a) ~~[Any]~~ Except as provided under Subsection (1)(b), a final action taken in  
110 violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of  
111 competent jurisdiction.

112 (b) A court may not void a final action taken by a public body for failure to comply  
113 with the:

114 (i) public notice requirements described in Subsection 52-4-202(2)(a)(i); or

115 (ii) posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

116 ~~[(i) the posting is made for a meeting that is held before April 1, 2009; or]~~

117 ~~[(ii)]~~ (A) the public body otherwise complies with the provisions of Section 52-4-202;

118 and

119 (B) the failure was a result of unforeseen Internet hosting or communication  
120 technology failure.

121 (2) Except as provided under Subsection (3), a suit to void final action shall be  
122 commenced within 90 days after the date of the action.

123 (3) A suit to void final action concerning the issuance of bonds, notes, or other  
124 evidences of indebtedness shall be commenced within 30 days after the date of the action.