

OPEN AND PUBLIC MEETINGS ACT REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marie H. Poulson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

▶ subjects certain committees, commissions, task forces, or other bodies to the Open and Public Meetings Act if they contain one or more members who are elected officials;

▶ requires a public body whose membership includes a legislator to post notice of its meetings on the Legislature's website; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-102, as renumbered and amended by Laws of Utah 2006, Chapter 14

52-4-103, as last amended by Laws of Utah 2012, Chapter 277

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



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

29 Section 1. Section **52-4-102** is amended to read:

30 **52-4-102. Declaration of public policy.**

31 (1) The Legislature finds and declares that the state, its agencies and political
32 subdivisions, and public committees exist to aid in the conduct of the people's business.

33 (2) It is the intent of the Legislature that the state, its agencies[;] and [~~its~~] political
34 subdivisions, and public committees:

- 35 (a) take their actions openly; and
- 36 (b) conduct their deliberations openly.

37 Section 2. Section **52-4-103** is amended to read:

38 **52-4-103. Definitions.**

39 As used in this chapter:

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

- 41 (a) an electronic meeting originates; or
- 42 (b) the participants are connected.

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

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

48 (4) "Electronic message" means a communication transmitted electronically,
49 including:

- 50 (a) electronic mail;
- 51 (b) instant messaging;
- 52 (c) electronic chat;
- 53 (d) text messaging as defined in Section [76-4-401](#); or
- 54 (e) any other method that conveys a message or facilitates communication
55 electronically.

56 (5) (a) "Meeting" means the convening of a public body, with a quorum present,
57 including a workshop or an executive session whether the meeting is held in person or by
58 means of electronic communications, for the purpose of discussing, receiving comments from

59 the public about, or acting upon a matter over which the public body has jurisdiction or
60 advisory power.

61 (b) "Meeting" does not mean:

62 (i) a chance meeting;

63 (ii) a social meeting;

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

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

70 (B) the public body is convened solely for the discussion or implementation of
71 administrative or operational matters that would not come before the public body for
72 discussion or action; or

73 (iv) a meeting of the State Tax Commission to consider a confidential tax matter in
74 accordance with Section 59-1-405.

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

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

80 (8) (a) "Public body" means

81 (i) any administrative, advisory, executive, or legislative body of the state or its
82 political subdivisions that:

83 [(i)] (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

84 [(ii)] (B) consists of two or more persons;

85 [(iii)] (C) expends, disburses, or is supported in whole or in part by tax revenue; and

86 [(iv)] (D) is vested with the authority to make decisions regarding the public's
87 business[-]; or

88 (ii) a public committee.

89 (b) "Public body" does not include a:

- 90 (i) political party, political group, or political caucus;
- 91 (ii) conference committee, rules committee, or sifting committee of the Legislature; or
- 92 (iii) school community council established under Section 53A-1a-108.

93 (9) "Public committee" means a committee, commission, task force, or other body,
 94 other than a body described in Subsection (8)(a)(i), that:

95 (a) consists of two or more individuals, at least one of whom:

- 96 (i) is an elected official of the state or a political subdivision of the state; and
- 97 (ii) is designated as a member of and serves on the committee, commission, task force,
 98 or other body by virtue of that elected position;

99 (b) is created under the authority of:

- 100 (i) statute;
- 101 (ii) executive order;
- 102 (iii) local ordinance, resolution, or other official declaration; or
- 103 (iv) agreement between governmental entities; and

104 (c) is vested with authority to advise or make decisions regarding any part of the
 105 public's business.

106 [~~9~~] (10) "Public statement" means a statement made in the ordinary course of
 107 business of the public body with the intent that all other members of the public body receive it.

108 [~~10~~] (11) (a) "Quorum" means a simple majority of the membership of a public body,
 109 unless otherwise defined by applicable law.

110 (b) "Quorum" does not include a meeting of two elected officials by themselves when
 111 no action, either formal or informal, is taken on a subject over which these elected officials
 112 have advisory power.

113 [~~11~~] (12) "Recording" means an audio, or an audio and video, record of the
 114 proceedings of a meeting that can be used to review the proceedings of the meeting.

115 [~~12~~] (13) "Transmit" means to send, convey, or communicate an electronic message
 116 by electronic means.

117 Section 3. Section 52-4-202 is amended to read:

118 **52-4-202. Public notice of meetings -- Emergency meetings.**

119 (1) A public body shall give not less than 24 hours public notice of each meeting
 120 including the meeting:

- 121 (a) agenda;
122 (b) date;
123 (c) time; and
124 (d) place.

125 (2) (a) In addition to the requirements under Subsection (1), a public body which holds
126 regular meetings that are scheduled in advance over the course of a year shall give public
127 notice at least once each year of its annual meeting schedule as provided in this section.

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

130 (3) (a) Public notice shall be satisfied by:

131 (i) posting written notice:

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

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

136 (ii) providing notice to:

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

139 (B) a local media correspondent.

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

145 (c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by
146 providing notice to a newspaper or local media correspondent under the provisions of
147 Subsection [63F-1-701](#)(4)(d).

148 (d) In addition to any other notice required under this section, a public body whose
149 membership includes a legislator shall cause the notice required in Subsection (1) to be posted
150 on the Legislature's website.

151 (4) A public body is encouraged to develop and use additional electronic means to

152 provide notice of its meetings under Subsection (3).

153 (5) (a) The notice requirement of Subsection (1) may be disregarded if:

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

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

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

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

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

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

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

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

163 provide reasonable specificity to notify the public as to the topics to be considered at the

164 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

165 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding

166 member of the public body, a topic raised by the public may be discussed during an open

167 meeting, even if the topic raised by the public was not included in the agenda or advance public

168 notice for the meeting.

169 (c) Except as provided in Subsection (5), relating to emergency meetings, a public

170 body may not take final action on a topic in an open meeting unless the topic is:

171 (i) listed under an agenda item as required by Subsection (6)(a); and

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

Legislative Review Note

as of 1-24-14 10:00 AM

Office of Legislative Research and General Counsel