

OPEN AND PUBLIC MEETINGS ACT

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott Daniels

This act modifies the Open and Public Meetings Act by eliminating the exemption for political party groups, caucus meetings, conference committees, rules committees, and sifting committees. This act eliminates the 24-hour notice requirements for those meetings when they are held during an annual general session, special session, or veto override session of the Legislature.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

52-4-2, as last amended by Chapter 89, Laws of Utah 1994

52-4-6, as last amended by Chapter 110, Laws of Utah 1998

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

Section 1. Section **52-4-2** is amended to read:

52-4-2. Definitions.

As used in this chapter:

(1) "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.

(2) (a) "Meeting" means the convening of a public body, with a quorum present, whether in person or by means of electronic equipment, for the purpose of discussing or acting upon a matter over which the public body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance meeting; or

(ii) 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.

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

~~[(i)]~~ (a) consists of two or more persons;

~~[(ii)]~~ (b) expends, disburses, or is supported in whole or in part by tax revenue; and

~~[(iii)]~~ (c) is vested with the authority to make decisions regarding the public's business.

~~[(b) "Public body" does not include any:]~~

~~[(i) political party, group, or caucus; nor]~~

~~[(ii) any conference committee, rules committee, or sifting committee of the Legislature.]~~

(4) (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 jurisdiction.

Section 2. Section **52-4-6** is amended to read:

52-4-6. Public notice of meetings.

(1) Any public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section. The public notice shall specify the date, time, and place of such meetings.

(2) ~~[(b)]~~ (a) Except as provided in Subsection (2)(b), and in addition to the notice requirements of Subsection (1) of this section, each public body shall give not less than 24 hours' public notice of the agenda, date, time and place of each of its meetings.

(b) A political party, group, or caucus, and a conference committee, rules committee,

59 or sifting committee of the Legislature need not provide the 24-hour public notice of the
60 agenda, date, time, and place of each of its meetings if the meeting is held during an annual
61 general session, a special session, or a veto override session of the Utah Legislature.

62 (3) Public notice shall be satisfied by:

63 (a) posting written notice at the principal office of the public body, or if no such office
64 exists, at the building where the meeting is to be held; and

65 (b) providing notice to at least one newspaper of general circulation within the
66 geographic jurisdiction of the public body, or to a local media correspondent.

67 (4) Public bodies are encouraged to develop and use electronic means to post notice in
68 addition to those means listed in Subsection (3).

69 (5) When because of unforeseen circumstances it is necessary for a public body to hold
70 an emergency meeting to consider matters of an emergency or urgent nature, the notice
71 requirements of Subsection (2) may be disregarded and the best notice practicable given. No
72 such emergency meeting of a public body shall be held unless an attempt has been made to
73 notify all of its members and a majority votes in the affirmative to hold the meeting.

Legislative Review Note
as of 10-22-02 10:25 AM

If the amendments made by this bill are not construed to require political party, group, or caucus meetings to be open, or conference committee, rules committee, or sifting committees to be open, this bill raises no obvious constitutional or statutory concerns.

If the amendments made by this bill are construed to require a political party, group or caucus to hold open meetings, it may violate the U.S. Constitution. United States Supreme Court opinions hold that political parties are private organizations and that state interference with their operation requires that the state demonstrate a compelling state interest in order for any restrictions on their right to political association to be constitutional.

If the amendments made by this bill are construed to require the Legislature to ensure that conference committees, rules committees, and sifting committees hold open meetings, it may violate the Utah Constitution's separation of power provision and the provision requiring the Legislature to determine the rules of its proceedings. Because the Open and Public Meetings Act authorizes courts to enforce it, making internal legislative meetings subject to the Act probably violates those constitutional provisions.

Office of Legislative Research and General Counsel

Fiscal Note**Open and Public Meetings Act***09-Jan-03***Bill Number HB0052***4:53 PM*

State Impact

No fiscal impact.

Individual and Business ImpactNo fiscal impact.

Office of the Legislative Fiscal Analyst