

Senator Parley G. Hellewell proposes the following substitute bill:

REVISIONS TO OPEN AND PUBLIC

MEETINGS LAW

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Glenn A. Donnelson

Senate Sponsor: Parley G. Hellewell

LONG TITLE

General Description:

This bill modifies the Open and Public Meeting Statutes by amending certain provisions.

Highlighted Provisions:

This bill:

- ▶ defines "recording" to mean an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting;
- ▶ encourages public bodies to use electronic means to:
 - provide public notice to media agencies that make a periodic written request to receive them; and
 - post public notice of its meetings on the internet;
- ▶ requires public notices with agendas to provide reasonable specificity to notify the public as to the topics to be considered at the meeting;
- ▶ prohibits a public body from considering topics that are not posted with the public notice and provides certain exceptions;
- ▶ requires both written minutes and a recording to be kept of all open meetings, with certain exceptions;



26 ▶ repeals a provision that only written minutes are the official record action taken at
27 an open meeting; and

28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **52-4-2**, as last amended by Chapter 89, Laws of Utah 1994

36 **52-4-6**, as last amended by Chapter 110, Laws of Utah 1998

37 **52-4-7**, as last amended by Chapter 311, Laws of Utah 2002



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

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

41 **52-4-2. Definitions.**

42 As used in this chapter:

43 (1) "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.

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

49 (b) "Meeting" does not mean:

50 (i) a chance meeting; or

51 (ii) the convening of a public body that has both legislative and executive
52 responsibilities where no public funds are appropriated for expenditure during the time the
53 public body is convened and:

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

56 or

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

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

- 62 (i) consists of two or more persons;
- 63 (ii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 64 (iii) is vested with the authority to make decisions regarding the public's business.

65 (b) "Public body" does not include any:

- 66 (i) political party, group, or caucus; nor
- 67 (ii) any conference committee, rules committee, or sifting committee of the
68 Legislature.

69 (4) (a) "Quorum" means a simple majority of the membership of a public body, unless
70 otherwise defined by applicable law.

71 (b) "Quorum" does not include a meeting of two elected officials by themselves when
72 no action, either formal or informal, is taken on a subject over which these elected officials
73 have jurisdiction.

74 (5) "Recording" means an audio, or an audio and video record of the proceedings of a
75 meeting that can be used to review the proceedings of the meeting.

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

77 **52-4-6. Public notice of meetings.**

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

82 (2) In addition to the notice requirements of Subsection (1) of this section, each public
83 body shall give not less than 24 hours' public notice of the agenda, date, time and place of each
84 of its meetings.

85 (3) Public notice shall be satisfied by:

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

88 (b) providing notice to:
89 (i) at least one newspaper of general circulation within the geographic jurisdiction of
90 the public body[;]; or [to]
91 (ii) a local media correspondent.

92 (4) ~~[Public bodies are]~~ A public body is encouraged to:
93 (a) develop and use electronic means to ~~[post]~~ provide notice ~~[in addition to those~~
94 ~~means listed in Subsection (3).]~~ of its meetings under Subsection (3)(b):

95 (b) provide public notice to all other media agencies that make a periodic written
96 request to receive them; and

97 (c) post public notice of its meetings on the Internet.

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

103 (6) (a) A public notice that is required to include an agenda under Subsection (2), shall
104 provide reasonable specificity to notify the public as to the topics to be considered at the
105 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

106 (b) Except as provided in Subsection (5) and Subsection (6)(c), a public body may not
107 consider a topic in an open meeting that is not:

108 (i) listed under an agenda item under Subsection (6)(a); and

109 (ii) included with the advanced public notice in accordance with this section.

110 (c) A topic not listed on the open meeting agenda that is raised by a member of the
111 public during an open meeting may be discussed but no final action may be taken by the public
112 body during that meeting.

113 Section 3. Section **52-4-7** is amended to read:

114 **52-4-7. Minutes of open meetings -- Public records -- Recording of meetings.**

115 (1) ~~[Written]~~ Except as provided under Subsection (8), written minutes [or a digital or
116 tape] and a recording shall be kept of all open meetings. Such minutes [or a digital or tape] and
117 a recording shall include:

118 (a) the date, time, and place of the meeting;

- 119 (b) the names of members present and absent;
- 120 (c) the substance of all matters proposed, discussed, or decided, and a record, by
121 individual member, of votes taken;
- 122 (d) the names of all citizens who appeared and the substance in brief of their testimony;
123 and
- 124 (e) any other information that any member requests be entered in the minutes.
- 125 (2) Except as provided in Section 52-4-7.5, written minutes or a ~~[digital or tape]~~
126 recording shall be kept of all closed meetings. Such minutes or ~~[digital or tape]~~ recording shall
127 include:
- 128 (a) the date, time, and place of the meeting;
- 129 (b) the names of members present and absent; and
- 130 (c) the names of all others present except where such disclosure would infringe on the
131 confidence necessary to fulfill the original purpose of closing the meeting.
- 132 (3) The minutes and recordings are public records and shall be available within a
133 reasonable time after the meeting. A meeting record kept only by a ~~[digital or tape]~~ recording
134 must be converted to written minutes within a reasonable time upon request.
- 135 (4) All or any part of an open meeting may be recorded by any person in attendance;
136 provided, the recording does not interfere with the conduct of the meeting.
- 137 (5) Minutes of meetings that are required to be retained permanently shall be
138 maintained in or converted to a format that meets long-term records storage requirements.
- 139 (6) Written minutes ~~[or digital or tape]~~ and recordings ~~[shall be]~~ of open meetings are
140 public records ~~[pursuant to]~~ under Title 63, Chapter 2, Government Records Access and
141 Management Act, but ~~[only]~~ written minutes shall be ~~[evidence of]~~ the official record of action
142 taken at ~~[such]~~ the meeting.
- 143 (7) A recording of an open meeting shall be a complete and unedited record of all open
144 portions of the meeting from the commencement of the meeting through adjournment of the
145 meeting.
- 146 (8) (a) Either written minutes or a recording shall be kept of:
- 147 (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken
148 by the public body; and
- 149 (b) an independent special district as defined under Title 17A, Special Districts, or a

150 local district under Title 17B, Chapter 2, Local Districts, if the district's annual budgeted
151 expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.