

1                                   **MODIFICATIONS TO OPEN AND PUBLIC**  
2   **MEETINGS**

3   2007 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Scott L Wyatt**

6   Senate Sponsor: Howard A. Stephenson

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Open and Public Meetings Act by amending certain provisions.

11   **Highlighted Provisions:**

12           This bill:

- 13           ▶ modifies definitions;
- 14           ▶ clarifies that public bodies created by the Utah Constitution are subject to the
- 15 requirements of the act;
- 16           ▶ clarifies that notice of an emergency meeting shall include notice of the time, place,
- 17 and topics of the meeting;
- 18           ▶ provides that, at the discretion of the presiding member of the public body, topics
- 19 raised by the public may be discussed at a meeting even if they have not been placed
- 20 on the agenda, provided that no final action is taken at the meeting; and
- 21           ▶ makes technical changes.

22   **Monies Appropriated in this Bill:**

23           None

24   **Other Special Clauses:**

25           None

26   **Utah Code Sections Affected:**

27   AMENDS:

28           **52-4-103**, as renumbered and amended by Chapter 14 and last amended by Chapters  
29 263 and 265, Laws of Utah 2006

30           **52-4-202**, as renumbered and amended by Chapter 14 and last amended by Chapter  
31 265, Laws of Utah 2006

32           **52-4-207**, as renumbered and amended by Chapter 14 and last amended by Chapter 17,  
33 Laws of Utah 2006



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

36           Section 1. Section **52-4-103** is amended to read:

37           **52-4-103. Definitions.**

38           As used in this chapter:

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

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

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

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

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

52           (b) "Meeting" does not mean:

- 53           (i) a chance meeting;
- 54           (ii) a social meeting; or
- 55           (iii) the convening of a public body that has both legislative and executive  
56 responsibilities where no public funds are appropriated for expenditure during the time the  
57 public body is convened and:

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

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

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

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

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

- 71 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- 72 (ii) consists of two or more persons;
- 73 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 74 (iv) is vested with the authority to make decisions regarding the public's business.

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

- 76 (i) political party, political group, or political caucus; or
- 77 (ii) conference committee, rules committee, or sifting committee of the Legislature.

78 [~~(8) "Public hearing" means a portion of a meeting in which comments from the public~~  
79 ~~will be accepted.]~~

80 [~~(9)~~ (8) "Public statement" means a statement made in the ordinary course of business  
81 of the public body with the intent that all other members of the public body receive it.

82 [~~(10)~~ (9) (a) "Quorum" means a simple majority of the membership of a public body,  
83 unless otherwise defined by applicable law.

84 (b) "Quorum" does not include a meeting of two elected officials by themselves when  
85 no action, either formal or informal, is taken on a subject over which these elected officials

86 have advisory power.

87 [~~(H)~~] (10) "Recording" means an audio, or an audio and video, record of the  
88 proceedings of a meeting that can be used to review the proceedings of the meeting.

89 Section 2. Section **52-4-202** is amended to read:

90 **52-4-202. Public notice of meetings -- Emergency meetings -- Discussion and**  
91 **action on topics not included on an agenda.**

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

- 94 (a) agenda;
- 95 (b) date;
- 96 (c) time; and
- 97 (d) place.

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

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

103 (3) Public notice shall be satisfied by:

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

106 (b) providing notice to:

- 107 (i) at least one newspaper of general circulation within the geographic jurisdiction of  
108 the public body; or
- 109 (ii) a local media correspondent.

110 (4) A public body is encouraged to:

111 (a) develop and use electronic means to provide notice of its meetings under  
112 Subsection (3)(b);

113 (b) provide public notice to all other media agencies that make a periodic written

114 request to receive them; and

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

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

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

119 (ii) the public body gives the best notice practicable [is given.] of:

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

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

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

123 (i) an attempt has been made to notify all [~~of its~~] the members of the public body; and

124 (ii) a majority of [~~its members approves holding~~] the members of the public body  
125 approve the meeting.

126 (6) (a) A public notice that is required to include an agenda under Subsection [~~(2)~~] (1)  
127 shall provide reasonable specificity to notify the public as to the topics to be considered at the  
128 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

129 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding  
130 member of the public body, a topic raised by the public may be discussed during an open  
131 meeting, even if the topic raised by the public was not included in the agenda or advance public  
132 notice for the meeting.

133 [~~(b)~~] (c) Except as provided in Subsection (5) [~~and Subsection (6)(c)~~], relating to  
134 emergency meetings, a public body may not [~~consider a topic~~] take final action on a topic in an  
135 open meeting [~~that is not~~] unless the topic is:

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

137 (ii) included with the [~~advanced~~] advance public notice [~~in accordance with~~] required  
138 by this section.

139 [~~(c) A topic not listed on the open meeting agenda that is raised during an open~~  
140 ~~meeting may be discussed but no final action may be taken by the public body during that~~  
141 ~~meeting.]~~

142 Section 3. Section **52-4-207** is amended to read:

143 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

144 (1) A public body may convene and conduct an electronic meeting in accordance with  
145 this section.

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

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

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

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

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

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

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

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

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

162 (3) A public body that convenes or conducts an electronic meeting shall:

163 (a) give public notice of the meeting:

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

165 (ii) post written notice at the anchor location;

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

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

- 170 (ii) a description of how the members will be connected to the electronic meeting;
- 171 (c) establish one or more anchor locations for the public meeting, at least one of which
- 172 is in the building and political subdivision where the public body would normally meet if they
- 173 were not holding an electronic meeting;
- 174 (d) provide space and facilities at the anchor location so that interested persons and the
- 175 public may attend and monitor the open portions of the meeting; and
- 176 (e) if [~~the meeting includes a public hearing~~] comments from the public will be
- 177 accepted during the electronic meeting, provide space and facilities at the anchor location so
- 178 that interested persons and the public may attend, monitor, and participate in the open portions
- 179 of the meeting.
- 180 (4) Compliance with the provisions of this section by a public body constitutes full and
- 181 complete compliance by the public body with the corresponding provisions of Sections
- 182 52-4-201 and 52-4-202.