

Representative John Dougall proposes the following substitute bill:

OPEN AND PUBLIC MEETINGS -

ELECTRONIC NOTICE

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act to amend provisions related to electronic notice of public meetings.

Highlighted Provisions:

This bill:

- ▶ modifies notice requirements in the Interlocal Cooperation Act to ensure compliance with notice provisions of the Open and Public Meetings Act;
 - ▶ requires a public body to provide public notice of its meetings on the Internet instead of requiring that the notice be provided to a newspaper or local media correspondent and gives certain smaller municipalities and special districts the option of either method of providing public notice;
 - ▶ provides that a public body may use a third party Internet service provider to post public notices if the website is easily accessible on the Internet;
 - ▶ prohibits a court from voiding a final action of a public body due to a technology failure affecting posting public notice on the Internet under certain circumstances;
- and
- ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill takes effect on January 1, 2008.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **11-13-223**, as last amended by Chapter 14, Laws of Utah 2006

33 **52-4-202**, as renumbered and amended by Chapter 14 and last amended by Chapter
34 265, Laws of Utah 2006

35 **52-4-302**, as renumbered and amended by Chapter 14, Laws of Utah 2006



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

38 Section 1. Section **11-13-223** is amended to read:

39 **11-13-223. Open and public meetings.**

40 (1) To the extent that an interlocal entity is subject to or elects, by formal resolution of
41 its governing body to comply with the provisions of Title 52, Chapter 4, Open and Public
42 Meetings Act, it may for purposes of complying with those provisions:

43 (a) convene and conduct any public meeting by means of a telephonic or
44 telecommunications conference; and

45 (b) give public notice of its meeting pursuant to Section 52-4-202 [by]:

46 [~~(i) posting written notice at the principal office of the governing body of the interlocal
47 entity, or if no such office exists, at the building where the meeting is to be held; and]~~

48 [~~(ii) providing notice to at least one newspaper of general circulation within the
49 boundaries of the municipality in which that principal office is located, or to a local media
50 correspondent.]~~

51 (2) In order to convene and conduct a public meeting by means of a telephonic or
52 telecommunications conference, each interlocal entity shall if it is subject to or elects by formal
53 resolution of its governing body to comply with Title 52, Chapter 4, Open and Public Meetings
54 Act:

55 (a) in addition to giving public notice required by Subsection (1) provide:

56 (i) notice of the telephonic or telecommunications conference to the members of the

57 governing body at least 24 hours before the meeting so that they may participate in and be
58 counted as present for all purposes, including the determination that a quorum is present; and

59 (ii) a description of how the members will be connected to the telephonic or
60 telecommunications conference;

61 (b) establish written procedures governing the conduct of any meeting at which one or
62 more members of the governing body are participating by means of a telephonic or
63 telecommunications conference;

64 (c) provide for an anchor location for the public meeting at the principal office of the
65 governing body; and

66 (d) provide space and facilities for the physical attendance and participation of
67 interested persons and the public at the anchor location, including providing for interested
68 persons and the public to hear by speaker or other equipment all discussions and deliberations
69 of those members of the governing body participating in the meeting by means of telephonic or
70 telecommunications conference.

71 (3) Compliance with the provisions of this section by a governing body constitutes full
72 and complete compliance by the governing body with the corresponding provisions of Sections
73 52-4-201 and 52-4-202, to the extent that those sections are applicable to the governing body.

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

75 **52-4-202. Public notice of meetings -- Emergency meetings.**

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

78 (a) agenda;

79 (b) date;

80 (c) time; and

81 (d) place.

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

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

87 (3) (a) Public notice shall be satisfied by~~[-(a)]~~ posting written notice;

88 (i) at the principal office of the public body, or if no principal office exists, at the
89 building where the meeting is to be held; and

90 (ii) on the Internet, in a manner that is easily accessible to citizens that use the Internet.
91 [~~(b) providing notice to:~~]

92 (b) In lieu of posting a written notice on the Internet under Subsection (3)(a)(ii), if a
93 municipality as defined under Title 10, Utah Municipal Code, a special district as defined
94 under Title 17A, Special Districts, or a local district as defined under Title 17B, Chapter 2,
95 Local Districts, has a current annual budget of less than \$1 million, a public body of the
96 municipality, special district, or local district may provide the public notice to:

97 (i) at least one newspaper of general circulation within the geographic jurisdiction of
98 the public body; or

99 (ii) a local media correspondent.

100 (4) A public body is encouraged to [~~:(a)~~] develop and use additional electronic means
101 to provide notice of its meetings under Subsection (3)[~~(b)~~;] to requesters.

102 [~~(b) provide public notice to all other media agencies that make a periodic written~~
103 ~~request to receive them; and]~~

104 [~~(c) post public notice of its meetings on the Internet.]~~

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

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

108 (ii) the best notice practicable is given.

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

110 (i) an attempt has been made to notify all of its members; and

111 (ii) a majority of its members approves holding the meeting.

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

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

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

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

119 (c) A topic not listed on the open meeting agenda that is raised during an open meeting
120 may be discussed but no final action may be taken by the public body during that meeting.

121 (7) (a) A public notice posted on the Internet under Subsection (3)(a)(ii) shall be posted
122 utilizing commonly recognized industry practices for hosting information on the Internet.

123 (b) Nothing in this section shall prohibit a public body from utilizing a third party
124 Internet service provider as the primary host for posting of public notices as required by this
125 chapter, provided that the public notice is easily accessible to citizens that use the Internet.

126 Section 3. Section **52-4-302** is amended to read:

127 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

128 (1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, or 52-4-207
129 is voidable by a court of competent jurisdiction.

130 (b) A court may not void a final action taken by a public body for failure to comply
131 with the posting written notice requirements on the Internet under Subsection
132 52-4-202(3)(a)(ii) if the public body otherwise complies with the provisions of Section
133 52-4-202 and the failure was a result of unforeseen Internet hosting or communication
134 technology failure.

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

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

139 Section 4. **Effective date.**

140 This bill takes effect on January 1, 2008.