

**OPEN AND PUBLIC MEETINGS REVISIONS
RELATED TO REVIEW OF ETHICS
COMPLAINTS**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

▶ exempts the Independent Legislative Ethics Commission from the requirements of the Open and Public Meetings Act by removing it from the definition of public bodies governed by the act; and

▶ provides that an ethics committee of the Legislature may close a meeting for the purpose of conducting deliberations to reach a decision on a complaint, or for discussing legal, evidentiary, or procedural matters, by a majority vote of the members present if the committee is meeting for the purpose of reviewing an ethics complaint.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:



28 **52-4-103**, as last amended by Laws of Utah 2007, Chapters 35 and 45

29 **52-4-204**, as last amended by Laws of Utah 2006, Chapter 263 and renumbered and
30 amended by Laws of Utah 2006, Chapter 14

31 **52-4-205**, as renumbered and amended by Laws of Utah 2006, Chapter 14



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

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

35 **52-4-103. Definitions.**

36 As used in this chapter:

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

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

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

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

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

50 (b) "Meeting" does not mean:

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

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

58 or

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

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

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

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

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

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

- 74 (i) political party, political group, or political caucus; [~~or~~]
- 75 (ii) conference committee, rules committee, or sifting committee of the Legislature[=];

76 or

77 (iii) the Independent Legislative Ethics Commission.

78 (8) "Public statement" means a statement made in the ordinary course of business of
79 the public body with the intent that all other members of the public body receive it.

80 (9) (a) "Quorum" means a simple majority of the membership of a public body, unless
81 otherwise defined by applicable law.

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

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

87 Section 2. Section **52-4-204** is amended to read:

88 **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for**
89 **meeting recorded.**

90 (1) A closed meeting may be held if:

91 (a) [if] a quorum is present; [~~and~~]

92 (b) the meeting is an open meeting for which notice has been given under Section
93 52-4-202; and

94 [~~(b) if~~] (c) (i) two-thirds of the members of the public body present at [~~an~~] the open
95 meeting [for which notice is given under Section 52-4-202] vote to approve closing the
96 meeting[-]; or

97 (ii) for an ethics committee of the Legislature that is conducting an open meeting for
98 the purpose of reviewing an ethics complaint, if a majority of the members present vote to
99 approve closing the meeting for the purpose of discussing legal, evidentiary, or procedural
100 matters or to conduct deliberations to reach a decision on the complaint.

101 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting
102 is permitted under Section 52-4-205.

103 (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be
104 approved at a closed meeting.

105 (4) The following information shall be publicly announced and entered on the minutes
106 of the open meeting at which the closed meeting was approved:

107 (a) the reason or reasons for holding the closed meeting;

108 (b) the location where the closed meeting will be held; and

109 (c) the vote by name, of each member of the public body, either for or against the
110 motion to hold the closed meeting.

111 (5) Nothing in this chapter shall be construed to require any meeting to be closed to the
112 public.

113 Section 3. Section **52-4-205** is amended to read:

114 **52-4-205. Purposes of closed meetings.**

115 (1) A closed meeting described under Section 52-4-204 may only be held for:

116 (a) discussion of the character, professional competence, or physical or mental health
117 of an individual;

118 (b) strategy sessions to discuss collective bargaining;

119 (c) strategy sessions to discuss pending or reasonably imminent litigation;

120 (d) strategy sessions to discuss the purchase, exchange, or lease of real property if

121 public discussion of the transaction would:

122 (i) disclose the appraisal or estimated value of the property under consideration; or

123 (ii) prevent the public body from completing the transaction on the best possible terms;

124 (e) strategy sessions to discuss the sale of real property if:

125 (i) public discussion of the transaction would:

126 (A) disclose the appraisal or estimated value of the property under consideration; or

127 (B) prevent the public body from completing the transaction on the best possible terms;

128 (ii) the public body previously gave public notice that the property would be offered for

129 sale; and

130 (iii) the terms of the sale are publicly disclosed before the public body approves the

131 sale;

132 (f) discussion regarding deployment of security personnel, devices, or systems;

133 (g) investigative proceedings regarding allegations of criminal misconduct; ~~and~~ or

134 (h) for an ethics committee of the Legislature that is reviewing an ethics complaint,

135 discussing legal, evidentiary, or procedural matters; and

136 ~~[(h) discussion by]~~ (i) for a county legislative body [of], discussing commercial

137 information as defined in Section 59-1-404.

138 (2) A public body may not interview a person applying to fill an elected position in a

139 closed meeting.

140 Section 4. **Effective date.**

141 If approved by two-thirds of all the members elected to each house, this bill takes effect

142 upon approval by the governor, or the day following the constitutional time limit of Utah

143 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

144 the date of veto override.

Legislative Review Note
as of 2-2-10 5:53 PM

Office of Legislative Research and General Counsel

Fiscal Note

**S.B. 136 - Open and Public Meetings Revisions Related to Review of Ethics
Complaints**

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
