

Senator Lyle W. Hillyard proposes the following substitute bill:

ELECTRONIC COMMUNICATIONS IN PUBLIC MEETINGS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill modifies provisions of the Open and Public Meetings Act that relate to electronic communications between members of public bodies.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ allows a member of a public body to transmit an electronic message to other members of the public body when the public body is not convened in an open meeting; and
- ▶ makes technical modifications.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:



26 **52-4-209**, Utah Code Annotated 1953

27

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

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

30 **52-4-103. Definitions.**

31 As used in this chapter:

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

33 (a) an electronic meeting originates; or

34 (b) the participants are connected.

35 (2) "Convening" means the calling of a meeting of a public body by a person

36 authorized to do so for the express purpose of discussing or acting upon a subject over which
37 that public body has jurisdiction or advisory power.

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

40 (4) "Electronic message" means a communication transmitted electronically, including:

41 (a) electronic mail;

42 (b) instant messaging;

43 (c) electronic chat;

44 (d) text messaging as defined in Section 76-4-401; or

45 (e) any other method that conveys a message or facilitates communication

46 electronically.

47 [~~(4)~~] (5) (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)~~] (6) "Monitor" means to hear or observe, live, by audio or video equipment, all of
65 the public statements of each member of the public body who is participating in a meeting.

66 [~~(6)~~] (7) "Participate" means the ability to communicate with all of the members of a
67 public body, either verbally or electronically, so that each member of the public body can hear
68 or observe the communication.

69 [~~(7)~~] (8) (a) "Public body" means any administrative, advisory, executive, or legislative
70 body 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)~~] (9) "Public statement" means a statement made in the ordinary course of business
79 of the public body with the intent that all other members of the public body receive it.

80 [~~(9)~~] (10) (a) "Quorum" means a simple majority of the membership of a public body,
81 unless 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)~~] (11) "Recording" means an audio, or an audio and video, record of the
86 proceedings of a meeting that can be used to review the proceedings of the meeting.

87 (12) "Transmit" means to send, convey, or communicate an electronic message by

88 electronic means.

89 Section 2. Section **52-4-209** is enacted to read:

90 **52-4-209. Electronic message transmissions.**

91 Nothing in this chapter shall be construed to restrict a member of a public body from

92 transmitting an electronic message to other members of the public body at a time when the

93 public body is not convened in an open meeting.

FISCAL NOTE

H.B. 54 3rd Sub. (Cherry)

SHORT TITLE: **Electronic Communications in Public Meetings**

SPONSOR: **Hillyard, L.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.