

ELECTRONIC COMMUNICATIONS IN PUBLIC MEETINGS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

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;
- ▶ prohibits members of a public body from:
 - sending an electronic message to a quorum of the public body during an open meeting; and
 - re-transmitting an electronic message to a quorum of the public body during 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:



28 52-4-209, Utah Code Annotated 1953



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

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

32 **52-4-103. Definitions.**

33 As used in this chapter:

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

35 (a) an electronic meeting originates; or

36 (b) the participants are connected.

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

38 authorized to do so for the express purpose of discussing or acting upon a subject over which

39 that public body has jurisdiction or advisory power.

40 (3) "Electronic meeting" means a public meeting convened or conducted by means of a

41 conference using electronic communications.

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

43 (a) electronic mail;

44 (b) instant messaging;

45 (c) electronic chat;

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

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

48 electronically.

49 [~~(4)~~] (5) (a) "Meeting" means the convening of a public body, with a quorum present,

50 including a workshop or an executive session whether the meeting is held in person or by

51 means of electronic communications, for the purpose of discussing, receiving comments from

52 the public about, or acting upon a matter over which the public body has jurisdiction or

53 advisory power.

54 (b) "Meeting" does not mean:

55 (i) a chance meeting;

56 (ii) a social meeting; or

57 (iii) the convening of a public body that has both legislative and executive

58 responsibilities where no public funds are appropriated for expenditure during the time the

59 public body is convened and:

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

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

66 [~~5~~] (6) "Monitor" means to hear or observe, live, by audio or video equipment, all of
67 the public statements of each member of the public body who is participating in a meeting.

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

71 [~~7~~] (8) (a) "Public body" means any administrative, advisory, executive, or legislative
72 body of the state or its political subdivisions that:

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

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

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

80 [~~8~~] (9) "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 [~~9~~] (10) (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 [~~10~~] (11) "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 (12) "Transmit" means to send, convey, or communicate by electronic means.

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

91 **52-4-209. Electronic message transmissions.**

92 (1) During an open meeting, a member of a public body may not knowingly:

93 (a) transmit an electronic message to a quorum of the public body; or

94 (b) re-transmit an electronic message to one or more members of the public body if
95 such re-transmission will cause the electronic message to have been received during the open
96 meeting by a total number of members of the public body amounting to a quorum.

97 (2) Nothing in this chapter prohibits one or more members of a public body from
98 transmitting to any number of members of the public body an electronic message, whether
99 simultaneously or in sequence, if the transmission does not take place during an open meeting.

Legislative Review Note
as of 1-17-11 6:47 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 54, 2011 General Session

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

SPONSOR: **Powell, K.**

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 and/or benefits 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.