

HB0207S01 compared with HB0207

~~{deleted text}~~ shows text that was in HB0207 but was deleted in HB0207S01.

inserted text shows text that was not in HB0207 but was inserted into HB0207S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kraig Powell proposes the following substitute bill:

OPEN AND PUBLIC MEETING ACT NOTICE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act by amending public notice requirements.

Highlighted Provisions:

This bill:

- ▶ ~~{increases}~~ if the need for a meeting is known at least 72 hours in advance, requires a public notice of ~~{meetings requirement from not less than 24 hours before the public meeting to}~~ not less than 72 hours ~~{before the}~~ for each public meeting ~~{~~
→ ~~allows a public body to give not less than 24 hours public notice before the scheduled start time of the meeting for an item that was not foreseen in time to give 72 hours public notice;~~
→ ~~allows a public body to give not less than 24 hours public notice before the~~

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~~scheduled start time for a meeting for which each item was not foreseen in time to give 72 hours public notice;~~

~~allows a public body within the Legislature to continue to provide not less than 24 hours public notice of its}~~ and provides that the public notice include an agenda on which all items then planned to be discussed at the meeting are listed;

- ▶ provides that the 24 hour public notice requirement is satisfied if no additional items are added to the agenda;
- ▶ provides exceptions for legislative meetings held for any special session, extraordinary session, or veto override session, or during the period of time beginning seven days before a general session and ending on the last day of the general session;
- ▶ prohibits a court from voiding a final action taken by a public body for failure to comply with the 72 hour public notice requirements; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-202, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

52-4-302, as last amended by Laws of Utah 2012, Chapter 403

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

Section 1. Section **52-4-202** is amended to read:

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

(1) [A] ~~Except as provided under Subsection (5) ~~for (6)~~,~~ a public body shall give not less than ~~24~~ ~~72~~ hours public notice before the scheduled start time of each meeting including the meeting:

- (a) agenda;
- (b) date;

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(c) scheduled start time; and

(d) place.

(2) (a) ~~[In]~~ Except as provided in Subsection (2)(c) or (d), in addition to the requirements under Subsection (1), a public body ~~{which}~~ [which]:

(i) if the need for a meeting is known at least 72 hours before the scheduled start time of the meeting, shall give not less than 72 hours public notice before the scheduled start time of each meeting and include in the public notice, an agenda on which all items planned to be discussed at the time of the public notice, are listed; and

(ii) that holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

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

(c) A public notice required under Subsection (1) is satisfied by the public notice given under Subsection (2)(a)(i), if no additional items are added to the agenda.

(d) The additional public notice requirements under Subsection (2)(a)(i) do not apply to a public body within the Legislature for a meeting held:

(i) for, or during, any special session, extraordinary session, or veto override session; or

(ii) during the period of time beginning seven days before a general session and ending on the last day of the general session.

(3) (a) Public notice under this section shall be satisfied by:

(i) posting written notice:

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

(B) ~~[beginning October 1, 2008 and]~~ except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

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

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local

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district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.

(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

~~{ (5) (a) Except as provided in Subsection (5)(c) or (6), for an item that was not included on an agenda in time to give 72 hours public notice as required under Subsection (1), because the need to address the item was not foreseen at the time public notice was given, the public body shall:~~

~~—— (i) give not less than 24 hours public notice before the scheduled start time of the meeting; and~~

~~—— (ii) comply with all other provisions required for providing public notice under this section.~~

~~—— (b) Except as provided in Subsection (5)(c) or (6), for a meeting for which 72 hours public notice was not made as required under Subsection (1), because the need to address each item on the meeting agenda was not foreseen at the time public notice should have been given, the public body shall:~~

~~—— (i) give not less than 24 hours public notice before the scheduled start time of the meeting; and~~

~~—— (ii) comply with all other provisions required for providing public notice under this section.~~

~~—— (c) Except as provided in Subsection (6), a public body within the Legislature shall provide not less than 24 hours public notice of each meeting held:~~

~~—— (i) for, or during, any special session, extraordinary session, or veto override session; or~~

~~—— (ii) during the period of time beginning seven days before a general session and ending on the last day of the general session.~~

~~‡ [(5)(a) The notice requirement of Subsection (1) may be disregarded if:]~~

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~~(6)5~~ (a) A public body is not required to comply with the notice requirements described in Subsections (1), ~~(3)2~~, and ~~(5)3~~ if:

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

(ii) the public body gives the best notice practicable of:

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

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

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

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

~~(6)7~~ (a) A public notice that is required to include an agenda under Subsection (1) and (2) shall:

(i) provide reasonable specificity to notify the public [~~as to the topics~~] of each item to be considered at the meeting [~~Each topic shall be listed under an agenda item~~]; and

(ii) list each item on the meeting agenda.

(b) Subject to the provisions of Subsection ~~(6)7~~(c), and at the discretion of the presiding member of the public body, [~~a topic~~] an item raised by the public may be discussed during an open meeting, even if the [~~topic~~] item raised by the public was not included in the agenda or advance public notice for the meeting.

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

(i) listed [~~under an~~] on the agenda [~~item~~] as required by Subsection ~~(6)7~~(a); and

(ii) included with the advance public notice required by this section.

†

Legislative Review Note

— as of ~~2-8-13 11:17 AM~~

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~~Office of Legislative Research and General Counsel~~; Section 2. Section 52-4-302 is amended to read:

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

(1) (a) [Any] Except as provided under Subsection (1)(b), a final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the:

(i) public notice requirements described in Subsection 52-4-202(2)(a)(i); or

(ii) posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

[i] the posting is made for a meeting that is held before April 1, 2009; or]

[(ii)] (A) the public body otherwise complies with the provisions of Section 52-4-202;

and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

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

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