

OPEN AND PUBLIC MEETINGS LAW REVISIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "specified body"; and
- ▶ clarifies application of the Open and Public Meetings Act to specified bodies.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2015, Chapters 265 and 276

52-4-202, as last amended by Laws of Utah 2015, Chapter 202

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

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

52-4-103. Definitions.

As used in this chapter:

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



28 (a) an electronic meeting originates; or

29 (b) the participants are connected.

30 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by
31 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
32 City.

33 (3) "Convening" means the calling together of a public body by a person authorized to
34 do so for the express purpose of discussing or acting upon a subject over which that public
35 body has jurisdiction or advisory power.

36 (4) "Electronic meeting" means a public meeting convened or conducted by means of a
37 conference using electronic communications.

38 (5) "Electronic message" means a communication transmitted electronically, including:

39 (a) electronic mail;

40 (b) instant messaging;

41 (c) electronic chat;

42 (d) text messaging as defined in Section [76-4-401](#); or

43 (e) any other method that conveys a message or facilitates communication
44 electronically.

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

50 (b) "Meeting" does not mean:

51 (i) a chance gathering or social gathering; or

52 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
53 accordance with Section [59-1-405](#).

54 (c) "Meeting" does not mean the convening of a public body that has both legislative
55 and executive responsibilities if:

56 (i) no public funds are appropriated for expenditure during the time the public body is
57 convened; and

58 (ii) the public body is convened solely for the discussion or implementation of

59 administrative or operational matters:

60 (A) for which no formal action by the public body is required; or

61 (B) that would not come before the public body for discussion or action.

62 (7) "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 (8) "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 (9) (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" includes, as defined in Section [11-13-103](#), an interlocal entity or joint
74 or cooperative undertaking.

75 (c) "Public body" does not include a:

76 (i) political party, political group, or political caucus;

77 (ii) conference committee, rules committee, or sifting committee of the Legislature; or

78 (iii) school community council or charter trust land council as defined in Section
79 [53A-1a-108.1](#).

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

82 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
83 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 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
88 meeting that can be used to review the proceedings of the meeting.

89 (13) "Specified body":

90 (a) means an administrative, advisory, executive, or legislative body that:
91 [~~(a)~~] (i) is not a public body;
92 [~~(b)~~] (ii) consists of three or more members; and
93 [~~(c)~~] (iii) includes at least one member who is:
94 [~~(i)~~] (A) a legislator; and
95 [~~(ii)~~] (B) officially appointed to the body by the president of the Senate, speaker of the
96 House of Representatives, or governor[-]; and

97 (b) does not include a body listed in Subsection (9)(c)(ii).

98 (14) "Transmit" means to send, convey, or communicate an electronic message by
99 electronic means.

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

101 **52-4-202. Public notice of meetings -- Emergency meetings.**

102 (1) (a) (i) A public body shall give not less than 24 hours' public notice of each
103 meeting.

104 (ii) A specified body shall give not less than 24 hours' public notice of each meeting
105 that the specified body holds on the capitol hill complex.

106 (b) The public notice required under Subsection (1)(a) shall include the meeting:

107 (i) agenda;

108 (ii) date;

109 (iii) time; and

110 (iv) place.

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

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

116 (3) (a) A public body or specified body satisfies a requirement for public notice by:

117 (i) posting written notice:

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

120 (B) on the Utah Public Notice Website created under Section [63F-1-701](#); and

- 121 (ii) providing notice to:
- 122 (A) at least one newspaper of general circulation within the geographic jurisdiction of
- 123 the public body; or
- 124 (B) a local media correspondent.
- 125 (b) A public body or specified body is in compliance with the provisions of Subsection
- 126 (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions
- 127 of Subsection 63F-1-701(4)(d).
- 128 (c) A public body whose limited resources make compliance with Subsection
- 129 (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in
- 130 Section 63A-12-101, to provide technical assistance to help the public body in its effort to
- 131 comply.
- 132 (4) A public body and a specified body are encouraged to develop and use additional
- 133 electronic means to provide notice of their meetings under Subsection (3).
- 134 (5) (a) The notice requirement of Subsection (1) may be disregarded if:
- 135 (i) because of unforeseen circumstances it is necessary for a public body or specified
- 136 body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
- 137 (ii) the public body or specified body gives the best notice practicable of:
- 138 (A) the time and place of the emergency meeting; and
- 139 (B) the topics to be considered at the emergency meeting.
- 140 (b) An emergency meeting of a public body may not be held unless:
- 141 (i) an attempt has been made to notify all the members of the public body; and
- 142 (ii) a majority of the members of the public body approve the meeting.
- 143 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall
- 144 provide reasonable specificity to notify the public as to the topics to be considered at the
- 145 meeting. Each topic shall be listed under an agenda item on the meeting agenda.
- 146 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding
- 147 member of the public body, a topic raised by the public may be discussed during an open
- 148 meeting, even if the topic raised by the public was not included in the agenda or advance public
- 149 notice for the meeting.
- 150 (c) Except as provided in Subsection (5), relating to emergency meetings, a public
- 151 body may not take final action on a topic in an open meeting unless the topic is:

- 152 (i) listed under an agenda item as required by Subsection (6)(a); and
- 153 (ii) included with the advance public notice required by this section.
- 154 (7) Except as provided in this section, this chapter does not apply to a specified body.

155 **Section 3. Effective date.**

156 If approved by two-thirds of all the members elected to each house, this bill takes effect
157 upon approval by the governor, or the day following the constitutional time limit of Utah
158 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
159 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel