

Senator Daniel W. Thatcher proposes the following substitute bill:

OPEN AND PUBLIC MEETINGS ACT MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill makes changes to the Open and Public Meetings Act related to electronic meetings.

Highlighted Provisions:

This bill:

- ▶ requires a public body to establish how a quorum is calculated for electronic meetings;
- ▶ provides that the Legislature may establish by legislative rule the procedure for providing members of a legislative public body with information regarding how to connect to an electronic meeting;
- ▶ prohibits a public body from permitting a member to vote or take other action by proxy during an electronic meeting unless the body adopts a resolution, rule, or ordinance allowing a member to act by proxy;
- ▶ requires all non-unanimous votes during an electronic meeting to be taken by roll call; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **52-4-207**, as last amended by Laws of Utah 2021, Chapter 242



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

32 Section 1. Section **52-4-207** is amended to read:

33 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

34 (1) Except as otherwise provided for a charter school in Section **52-4-209**, a public
35 body may convene and conduct an electronic meeting in accordance with this section.

36 (2) (a) A public body may not hold an electronic meeting unless the public body has
37 adopted a resolution, rule, or ordinance governing the use of electronic meetings.

38 (b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an
39 electronic meeting held after December 31, 2022, shall establish the conditions under which a
40 remote member is included in calculating a quorum.

41 ~~[(b)]~~ (c) ~~[The]~~ A resolution, rule, or ordinance described in Subsection (2)(a) may:

42 (i) prohibit or limit electronic meetings based on budget, public policy, or logistical
43 considerations;

44 (ii) require a quorum of the public body to:

45 (A) be present at a single anchor location for the meeting; and

46 (B) vote to approve establishment of an electronic meeting in order to include other
47 members of the public body through an electronic connection;

48 (iii) require a request for an electronic meeting to be made by a member of a public
49 body up to three days prior to the meeting to allow for arrangements to be made for the
50 electronic meeting;

51 (iv) restrict the number of separate connections for members of the public body that are
52 allowed for an electronic meeting based on available equipment capability; ~~[or]~~

53 (v) if the public body is statutorily authorized to allow a member of the public body to
54 act by proxy, establish the conditions under which a member may vote or take other action by
55 proxy; or
56

57 ~~[(v)]~~ (vi) establish other procedures, limitations, or conditions governing electronic
58 meetings not in conflict with this section.

59 ~~[(3) A public body that convenes or conducts an electronic meeting shall:]~~

60 ~~[(a) give public notice of the meeting:]~~

61 ~~[(i) in accordance with Section [52-4-202](#); and]~~

62 ~~[(ii) except for an electronic meeting under Subsection (5)(a), post written notice at the~~
63 ~~anchor location; and]~~

64 ~~[(b) in addition to giving public notice required by Subsection (3)(a), provide:]~~

65 ~~[(i) notice of the electronic meeting to the members of the public body at least 24 hours~~
66 ~~before the meeting so that they may participate in and be counted as present for all purposes;~~
67 ~~including the determination that a quorum is present; and]~~

68 ~~[(ii) a description of how the members will be connected to the electronic meeting.]~~

69 (3) A public body that convenes and conducts an electronic meeting shall:

70 (a) give public notice of the meeting in accordance with Section [52-4-202](#);

71 (b) except for an electronic meeting described in Subsection (5), post written notice of
72 the meeting at the anchor location; and

73 (c) except as otherwise provided in legislative rule, at least 24 hours before the
74 electronic meeting is scheduled to begin, provide each member of the public body a description
75 of how to electronically connect to the meeting.

76 (4) (a) Except as provided in Subsection (5), a public body that convenes and conducts
77 an electronic meeting shall provide space and facilities at an anchor location for members of
78 the public to attend the open portions of the meeting.

79 (b) A public body that convenes and conducts an electronic meeting may provide
80 means by which members of the public who are not physically present at the anchor location
81 may attend the meeting remotely by electronic means.

82 (5) Subsection (4)(a) does not apply to an electronic meeting if:

83 (a) (i) the chair of the public body determines that:

84 (A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk
85 to the health or safety of those present or who would otherwise be present at the anchor
86 location; or

87 (B) the location where the public body would normally meet has been ordered closed

88 to the public for health or safety reasons; and

89 (ii) the public notice for the meeting includes:

90 (A) a statement describing the chair's determination under Subsection (5)(a)(i);

91 (B) a summary of the facts upon which the chair's determination is based; and

92 (C) information on how a member of the public may attend the meeting remotely by
93 electronic means; or

94 (b) (i) during the course of the electronic meeting, the chair:

95 (A) determines that continuing to conduct the electronic meeting as provided in
96 Subsection (4)(a) presents a substantial risk to the health or safety of those present at the
97 anchor location; and

98 (B) announces during the electronic meeting the chair's determination under Subsection
99 (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

100 (ii) in convening the electronic meeting, the public body has provided means by which
101 members of the public who are not physically present at the anchor location may attend the
102 electronic meeting remotely by electronic means.

103 (6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which
104 the chair of the public body makes the determination.

105 (7) Compliance with the provisions of this section by a public body constitutes full and
106 complete compliance by the public body with the corresponding provisions of Sections
107 [52-4-201](#) and [52-4-202](#).

108 (8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection
109 (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to
110 vote or otherwise act by proxy.

111 (9) Except for a unanimous vote, a public body that is conducting an electronic
112 meeting shall take all votes by roll call.