

1 **OPEN AND PUBLIC MEETINGS ACT AMENDMENTS**

2 2020 FIFTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val K. Potter**

5 Senate Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Open and Public Meetings Act in relation to an
10 anchor location for an electronic meeting.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies notice provisions relating to electronic meetings held without an anchor
14 location;

15 ▶ enacts requirements relating to the public's ability to view or hear, and make
16 comments during, the open portion of an electronic meeting held without an anchor
17 location; and

18 ▶ permits a public body to hold an electronic meeting without an anchor location if
19 the chair of the public body:

20 • makes a written determination, supported by stated facts, that conducting the
21 meeting with an anchor location presents a substantial risk to the health and
22 safety of those who may be present at the anchor location; and

23 • complies with certain public notice requirements.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 [52-4-202](#), as last amended by Laws of Utah 2016, Chapter 77

31 [52-4-207](#), as last amended by Laws of Utah 2011, Chapter 31

32

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

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

35 **52-4-202. Public notice of meetings -- Emergency meetings.**

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

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

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

41 (i) agenda;

42 (ii) date;

43 (iii) time; and

44 (iv) place.

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

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

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

51 (i) posting written notice:

52 (A) except for an electronic meeting held without an anchor location under Subsection
53 [52-4-207\(4\)](#), at the principal office of the public body or specified body, or if no principal
54 office exists, at the building where the meeting is to be held; and

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

56 (ii) providing notice to:

57 (A) at least one newspaper of general circulation within the geographic jurisdiction of

58 the public body; or

59 (B) a local media correspondent.

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

63 (c) A public body whose limited resources make compliance with Subsection
64 (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in
65 Section 63A-12-101, to provide technical assistance to help the public body in its effort to
66 comply.

67 (4) A public body and a specified body are encouraged to develop and use additional
68 electronic means to provide notice of their meetings under Subsection (3).

69 (5) (a) The notice requirement of Subsection (1) may be disregarded if:

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

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

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

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

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

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

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

78 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall
79 provide reasonable specificity to notify the public as to the topics to be considered at the
80 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

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

85 (c) Except as provided in Subsection (5), relating to emergency meetings, a public

86 body may not take final action on a topic in an open meeting unless the topic is:

87 (i) listed under an agenda item as required by Subsection (6)(a); and

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

89 (7) Except as provided in this section, this chapter does not apply to a specified body.

90 Section 2. Section **52-4-207** is amended to read:

91 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

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

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

96 (b) The resolution, rule, or ordinance may:

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

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

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

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

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

106 (iv) restrict the number of separate connections for members of the public body that are
107 allowed for an electronic meeting based on available equipment capability; or

108 (v) establish other procedures, limitations, or conditions governing electronic meetings
109 not in conflict with this section.

110 (3) A public body that convenes or conducts an electronic meeting shall:

111 (a) give public notice of the meeting:

112 (i) in accordance with Section **52-4-202**; and

113 (ii) except for an electronic meeting held without an anchor location under Subsection

114 (4), post written notice at the anchor location;

115 (b) in addition to giving public notice required by Subsection (3)(a), provide:

116 (i) notice of the electronic meeting to the members of the public body at least 24 hours
117 before the meeting so that they may participate in and be counted as present for all purposes,
118 including the determination that a quorum is present; and

119 (ii) a description of how the members will be connected to the electronic meeting;

120 (c) except for an electronic meeting held without an anchor location under Subsection
121 (4), establish one or more anchor locations for the public meeting, at least one of which is in
122 the building and political subdivision where the public body would normally meet if they were
123 not holding an electronic meeting;

124 (d) (i) provide space and facilities at the anchor location so that interested persons and
125 the public may attend and monitor the open portions of the meeting; or

126 (ii) for an electronic meeting held without an anchor location under Subsection (4),
127 provide means by which the public may hear, or view and hear, the open portions of the
128 meeting; and

129 (e) if comments from the public will be accepted during the electronic meeting[~~;~~];

130 (i) provide space and facilities at the anchor location so that interested persons and the
131 public may attend, monitor, and participate in the open portions of the meeting[~~;~~]; or

132 (ii) for an electronic meeting held without an anchor location under Subsection (4),
133 provide means by which members of the public may provide comments by electronic means to
134 the public body.

135 (4) A public body may convene and conduct an electronic meeting without an anchor
136 location if the chair of the public body:

137 (a) makes a written determination that conducting the meeting with an anchor location
138 presents a substantial risk to the health and safety of those who may be present at the anchor
139 location;

140 (b) states in the written determination described in Subsection (4)(a) the facts upon
141 which the determination is based;

142 (c) includes in the public notice for the meeting, and reads at the beginning of the
143 meeting, the information described in Subsections (4)(a) and (b); and

144 (d) includes in the public notice information on how a member of the public may view
145 or make a comment at the meeting.

146 (5) A written determination described in Subsections (4)(a) and (b) expires 30 days
147 after the day on which the chair of the public body makes the determination.

148 [~~4~~] (6) Compliance with the provisions of this section by a public body constitutes
149 full and complete compliance by the public body with the corresponding provisions of Sections
150 52-4-201 and 52-4-202.

151 Section 3. **Effective date.**

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