

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2038

By: McCall

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6 AS INTRODUCED

7 An Act relating to open meetings; amending 25 O.S.
8 2011, Section 307.1, as last amended by Section 3,
Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020, Section
9 307.1), which relates to videoconferences and
teleconferences; modifying date; amending 25 O.S.
10 2011, Section 311, as last amended by Section 4,
Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020, Section
11 311), which relates to notice; modifying date; and
declaring an emergency.

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 25 O.S. 2011, Section 307.1, as
16 last amended by Section 3, Chapter 3, O.S.L. 2020 (25 O.S. Supp.
17 2020, Section 307.1), is amended to read as follows:

18 Section 307.1. A. Except as provided in subsections C and D of
19 this section, a public body may hold meetings by videoconference
20 where each member of the public body is visible and audible to each
21 other and the public through a video monitor, subject to the
22 following:

- 23 1. a. except as provided for in subparagraph b of this
24 paragraph, no less than a quorum of the public body

1 shall be present in person at the meeting site as
2 posted on the meeting notice and agenda,

- 3 b. a virtual charter school approved and sponsored by the
4 Statewide Virtual Charter School Board pursuant to the
5 provisions of Section 3-145.3 of Title 70 of the
6 Oklahoma Statutes shall maintain a quorum of members
7 for the entire duration of the meeting whether using
8 an in-person site, videoconference sites or any
9 combination of such sites to achieve a quorum; and
10 c. each public meeting held by videoconference or
11 teleconference shall be recorded either by written,
12 electronic, or other means;

13 2. The meeting notice and agenda prepared in advance of the
14 meeting, as required by law, shall indicate if the meeting will
15 include videoconferencing locations and shall state:

- 16 a. the location, address, and telephone number of each
17 available videoconference site, and
18 b. the identity of each member of the public body and the
19 specific site from which each member of the body shall
20 be physically present and participating in the
21 meeting;

22 3. After the meeting notice and agenda are prepared and posted,
23 as required by law, no member of the public body shall be allowed to
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1 participate in the meeting from any location other than the specific
2 location posted on the agenda in advance of the meeting;

3 4. In order to allow the public the maximum opportunity to
4 attend and observe each public official carrying out the duties of
5 the public official, a member or members of a public body desiring
6 to participate in a meeting by videoconference shall participate in
7 the videoconference from a site and room located within the district
8 or political subdivision from which they are elected, appointed, or
9 are sworn to represent;

10 5. Each site and room where a member of the public body is
11 present for a meeting by videoconference shall be open and
12 accessible to the public, and the public shall be allowed into that
13 site and room. Public bodies may provide additional videoconference
14 sites as a convenience to the public, but additional sites shall not
15 be used to exclude or discourage public attendance at any
16 videoconference site;

17 6. The public shall be allowed to participate and speak, as
18 allowed by rule or policy set by the public body, in a meeting at
19 the videoconference site in the same manner and to the same extent
20 as the public is allowed to participate or speak at the site of the
21 meeting;

22 7. Any materials shared electronically between members of the
23 public body, before or during the videoconference, shall also be
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1 immediately available to the public in the same form and manner as
2 shared with members of the public body; and

3 8. All votes occurring during any meeting conducted using
4 videoconferencing shall occur and be recorded by roll call vote.

5 B. No public body shall conduct an executive session by
6 videoconference.

7 C. Upon the effective date of this act and until ~~November 15,~~
8 ~~2020~~ January 31, 2022, or the Governor declaring the state of
9 emergency to be terminated, whichever date first occurs, the
10 provisions of this subsection and subsection D shall operate as law
11 in this state.

12 1. A public body may hold meetings by teleconference or
13 videoconference if each member of the public body is audible or
14 visible to each other and the public, subject to the following:

- 15 a. for a virtual charter school approved and sponsored by
16 the Statewide Virtual Charter School Board pursuant to
17 the provisions of the Oklahoma Statutes, the public
18 body shall maintain a quorum of members for the entire
19 duration of the meeting whether using an in-person
20 site, teleconference, or videoconference or any
21 combination of such sites to achieve a quorum, and
- 22 b. if the meeting is held using either teleconference or
23 videoconference capabilities, and at any time the
24 audio connection is disconnected, the meeting shall be

1 stopped and reconvened once the audio connection is
2 restored;

3 2. The meeting notice and agenda prepared in advance of the
4 meeting, as required by law, shall indicate if the meeting will
5 include teleconferencing or videoconferencing and shall also state:

6 a. each public body member appearing remotely and the
7 method of each member's remote appearance, and

8 b. the identity of the public body member or members who
9 will be physically present at the meeting site, if
10 any;

11 3. After the meeting notice and agenda are prepared and posted
12 as required by law, public body members shall not be permitted to
13 alter their method of attendance; provided, however, those members
14 who were identified as appearing remotely may be permitted to
15 physically appear at the meeting site, if any, for the meeting;

16 4. The public body shall be allowed to participate and speak,
17 as allowed by rule or policy set by the public body, in a meeting
18 which utilizes teleconference or videoconference in the same manner
19 and to the same extent as the public is allowed to participate or
20 speak during a meeting where all public body members are physically
21 present together at the meeting site;

22 5. Any materials shared electronically between members of the
23 public body during a meeting utilizing teleconferencing or
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1 videoconferencing shall also be immediately available to the public
2 in the same form as shared with the members of the public body; and

3 6. All votes occurring during any meeting utilizing
4 teleconference or videoconference shall occur and be recorded by
5 roll call votes.

6 D. Public bodies are permitted to conduct an executive session
7 by teleconference or videoconference. For such executive sessions,
8 no public body member is required to be physically present so long
9 as each public body member is audible or visible to each other. The
10 meeting notice and agenda prepared in advance of the meeting as
11 required by law shall indicate if the executive session will include
12 teleconferencing or videoconferencing and shall also state the
13 identity of each public body member appearing remotely, the method
14 of each member's remote appearance, and whether any member will be
15 physically present at the meeting site, if any, for the executive
16 session.

17 SECTION 2. AMENDATORY 25 O.S. 2011, Section 311, as last
18 amended by Section 4, Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020,
19 Section 311), is amended to read as follows:

20 Section 311. A. Notwithstanding any other provisions of law,
21 all regularly scheduled, continued or reconvened, special or
22 emergency meetings of public bodies shall be preceded by public
23 notice as follows:

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1 1. All public bodies shall give notice in writing by December
2 15 of each calendar year of the schedule showing the date, time and
3 place of the regularly scheduled meetings of such public bodies for
4 the following calendar year;

5 2. All state public bodies, including, but not limited to,
6 public trusts and other bodies with the state as beneficiary, shall
7 give such notice to the Secretary of State;

8 3. All county public bodies including, but not limited to,
9 public trusts and any other bodies with the county as beneficiary,
10 shall give such notice to the county clerk of the county wherein
11 they are principally located;

12 4. All municipal public bodies, including, but not limited to,
13 public trusts and any other bodies with the municipality as
14 beneficiary, shall give such notice to the municipal clerk of the
15 municipality wherein they are principally located;

16 5. All multicounty, regional, areawide or district public
17 bodies including, but not limited to, district boards of education,
18 shall give such notice to the county clerk of the county wherein
19 they are principally located, or if no office exists, to the county
20 clerk of the county or counties served by such public body;

21 6. All governing boards of state institutions of higher
22 education, and committees and subcommittees thereof, shall give such
23 notice to the Secretary of State. All other public bodies covered
24 by the provisions of the Oklahoma Open Meeting Act which exist under

1 the auspices of a state institution of higher education, but a
2 majority of whose members are not members of the institution's
3 governing board, shall give such notice to the county clerk of the
4 county wherein the institution is principally located;

5 7. The Secretary of State and each county clerk or municipal
6 clerk shall keep a record of all notices received in a register open
7 to the public for inspection during regular office hours, and, in
8 addition, shall make known upon any request of any person the
9 contents of the register;

10 8. If any change is to be made of the date, time or place of
11 regularly scheduled meetings of public bodies, then notice in
12 writing shall be given to the Secretary of State or county clerk or
13 municipal clerk, as required herein, not less than ten (10) days
14 prior to the implementation of any such change;

15 9. In addition to the advance public notice in writing required
16 to be filed for regularly scheduled meetings, described in paragraph
17 1 of this subsection, all public bodies shall, at least twenty-four
18 (24) hours prior to such regularly scheduled meetings, display
19 public notice of the meeting by at least one of the following
20 methods:

21 a. by posting information that includes date, time, place
22 and agenda for the meeting in prominent public view at
23 the principal office of the public body or at the
24 location of the meeting if no office exists, or

- 1 b. by posting on the public body's Internet website the
2 date, time, place and agenda for the meeting in
3 accordance with Section 3106.2 of Title 74 of the
4 Oklahoma Statutes. Additionally, the public body
5 shall offer and consistently maintain an email
6 distribution system for distribution of such notice of
7 a public meeting required by this subsection, and any
8 person may request to be included without charge, and
9 their request shall be accepted. The emailed notice
10 of a public meeting required by this subsection shall
11 include in the body of the email or as an attachment
12 to the email the date, time, place and agenda for the
13 meeting and it shall be sent no less than twenty-four
14 (24) hours prior to the meeting. Additionally, except
15 as provided in subparagraph c of this paragraph, the
16 public body shall make the notice of a public meeting
17 required by this subsection available to the public in
18 the principal office of the public body or at the
19 location of the meeting during normal business hours
20 at least twenty-four (24) hours prior to the meeting,
21 or
- 22 c. upon the effective date of this act and until ~~November~~
23 ~~15, 2020~~ January 31, 2022, or the Governor declaring
24 the state of emergency to be terminated, whichever

1 date first occurs, the public body shall not be
2 required to make the notice of a public meeting
3 available to the public in the principal office of the
4 public body or at the location of the meeting during
5 normal business hours at least twenty-four (24) hours
6 prior to the meeting;

7 10. The twenty-four (24) hours required in paragraph 9 of this
8 subsection shall exclude Saturdays, Sundays and holidays legally
9 declared by the State of Oklahoma. The posting or distribution of a
10 notice of a public meeting as described in paragraph 9 of this
11 subsection shall not preclude a public body from considering at its
12 regularly scheduled meeting any new business. "New business", as
13 used herein, shall mean any matter not known about or which could
14 not have been reasonably foreseen prior to the time of the posting;

15 11. In the event any meeting is to be continued or reconvened,
16 public notice of such action including date, time and place of the
17 continued meeting, shall be given by announcement at the original
18 meeting. Only matters appearing on the agenda of the meeting which
19 is continued may be discussed at the continued or reconvened
20 meeting;

21 12. Special meetings of public bodies shall not be held without
22 public notice being given at least forty-eight (48) hours prior to
23 the meetings. Such public notice of date, time and place shall be
24 given in writing, in person or by telephonic means to the Secretary

1 of State or to the county clerk or to the municipal clerk by public
2 bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of
3 this subsection. The public body also shall cause written notice of
4 the date, time and place of the meeting to be mailed or delivered to
5 each person, newspaper, wire service, radio station and television
6 station that has filed a written request for notice of meetings of
7 the public body with the clerk or secretary of the public body or
8 with some other person designated by the public body. Such written
9 notice shall be mailed or delivered at least forty-eight (48) hours
10 prior to the special meeting. The public body may charge a fee of
11 up to Eighteen Dollars (\$18.00) per year to persons or entities
12 filing a written request for notice of meetings, and may require
13 such persons or entities to renew the request for notice annually.
14 In addition, all public bodies shall, at least twenty-four (24)
15 hours prior to such special meetings, display public notice of the
16 meeting, setting forth thereon the date, time, place and agenda for
17 the meeting. Only matters appearing on the posted agenda may be
18 considered at the special meeting. Such public notice shall be
19 posted in prominent public view at the principal office of the
20 public body or at the location of the meeting if no office exists.
21 Twenty-four (24) hours prior public posting shall exclude Saturdays,
22 Sundays and holidays legally declared by the State of Oklahoma. In
23 lieu of the public posting requirements of this paragraph, a public
24 body may elect to follow the requirements found in subparagraph b of

1 paragraph 9 of this subsection, provided that forty-eight-hour
2 notice is required for special meetings and that the forty-eight-
3 hour requirement shall exclude Saturdays, Sundays and holidays
4 legally declared by the State of Oklahoma; and

5 13. In the event of an emergency, an emergency meeting of a
6 public body may be held without the public notice heretofore
7 required. Should an emergency meeting of a public body be
8 necessary, the person calling such a meeting shall give as much
9 advance public notice as is reasonable and possible under the
10 circumstances existing, in person or by telephonic or electronic
11 means.

12 B. 1. All agendas required pursuant to the provisions of this
13 section shall identify all items of business to be transacted by a
14 public body at a meeting including, but not limited to, any proposed
15 executive session for the purpose of engaging in deliberations or
16 rendering a final or intermediate decision in an individual
17 proceeding prescribed by the Administrative Procedures Act.

18 2. If a public body proposes to conduct an executive session,
19 the agenda shall:

- 20 a. contain sufficient information for the public to
21 ascertain that an executive session will be proposed,
22 b. identify the items of business and purposes of the
23 executive session, and
24

1 c. state specifically the provision of Section 307 of
2 this title authorizing the executive session.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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