

Senator David G. Buxton proposes the following substitute bill:

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David G. Buxton

House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the convening of an electronic meeting;
- ▶ requires a public body convening an electronic meeting to provide facilities at an anchor location for the public to attend the meeting;
- ▶ makes exceptions to the requirement to provide facilities at an anchor location; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-207, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 1

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



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

27 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

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

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

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

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

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

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

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

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

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

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

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

47 (a) give public notice of the meeting:

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

49 (ii) except for an electronic meeting [~~held without an anchor location~~] under

50 Subsection [~~(4)~~] (5)(a), post written notice at the anchor location; and

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

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

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

56 [~~(c) except for an electronic meeting held without an anchor location under Subsection~~

57 ~~(4), establish one or more anchor locations for the public meeting, at least one of which is in~~
58 ~~the building and political subdivision where the public body would normally meet if they were~~
59 ~~not holding an electronic meeting;]~~

60 ~~[(d) (i) provide space and facilities at the anchor location so that interested persons and~~
61 ~~the public may attend and monitor the open portions of the meeting; or]~~

62 ~~[(ii) for an electronic meeting held without an anchor location under Subsection (4),~~
63 ~~provide means by which the public may hear, or view and hear, the open portions of the~~
64 ~~meeting; and]~~

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

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

68 ~~[(ii) for an electronic meeting held without an anchor location under Subsection (4),~~
69 ~~provide means by which members of the public may provide comments by electronic means to~~
70 ~~the public body.]~~

71 ~~[(4) A public body may convene and conduct an electronic meeting without an anchor~~
72 ~~location if]~~

73 ~~[the chair of the public body:]~~

74 ~~[(a) makes a written determination that conducting the meeting with an anchor location~~
75 ~~presents a substantial risk to the health and safety of those who may be present at the anchor~~
76 ~~location;]~~

77 ~~[(b) states in the written determination described in Subsection (4)(a) the facts upon~~
78 ~~which the determination is based;]~~

79 ~~[(c) includes in the public notice for the meeting, and reads at the beginning of the~~
80 ~~meeting, the information described in Subsections (4)(a) and (b); and]~~

81 ~~[(d) includes in the public notice information on how a member of the public may view~~
82 ~~or make a comment at the meeting.]~~

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

86 (b) A public body that convenes and conducts an electronic meeting may provide
87 means by which members of the public who are not physically present at the anchor location

88 may attend the meeting remotely by electronic means.

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

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

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

94 (B) the location where the public body would normally meet has been ordered closed
95 to the public for health or safety reasons; and

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

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

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

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

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

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

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

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

110 ~~[(5)] (6) A [written] determination [described in Subsections (4)(a) and (b)] under~~
111 Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes
112 the determination.

113 ~~[(6)] (7) Compliance with the provisions of this section by a public body constitutes~~
114 full and complete compliance by the public body with the corresponding provisions of Sections
115 52-4-201 and 52-4-202.