

HOUSE BILL REPORT

HB 1056

As Reported by House Committee On:
Local Government

Title: An act relating to open public meeting notice requirements and declared emergencies.

Brief Description: Concerning open public meeting notice requirements and declared emergencies.

Sponsors: Representatives Pollet, Goehner, Kloba, Lekanoff, Leavitt, Senn, Callan and Fey.

Brief History:

Committee Activity:

Local Government: 1/13/21, 1/15/21 [DPS].

Brief Summary of Substitute Bill

- Allows a public agency to hold meetings of its governing body remotely, or with limited in-person attendance after a declared emergency.
- Requires that the public be allowed to listen in, in real time, to meetings that are held remotely or with limited in-person attendance.
- Requires all public agencies, except for certain special purpose districts, to post agendas online for regular meetings and for special meetings held remotely or with limited in-person attendance.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg, Robertson and Senn.

Staff: Kellen Wright (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

The meetings of the governing body of a public agency must, with limited exceptions, be open to the public. Public agencies include all state boards, commissions, and education institutions created by statutes, as well as all counties, cities, school districts and special purpose districts. Any member of the public who wants to attend such a meeting must be permitted to do so, and no conditions, such as requiring the provision of a name or address, may be imposed on attendance. Governing bodies are prohibited from adopting any ordinance, resolution, rule, regulation, order, or directive outside of a meeting that is open to the public, and for which the required notice has been provided. Any action taken at a meeting that violates these requirements is void.

In order to facilitate public involvement, governing bodies must establish a regular meeting time through an ordinance, resolution, bylaw, or other rule, and a schedule of these meetings must be published in the state register. For agencies that have a website or employ 10 or more full-time equivalent employees, agendas of regular meetings must be posted online at least 24 hours in advance of the meeting.

Special meetings outside of the ones regularly scheduled may be held if certain notice requirements are met, including the posting of notice on an agency's website and the prominent display of notice outside of the meeting location at least 24 hours prior to the meeting. An agency is not required to post notice on its website if it does not have a website or has fewer than 10 full-time equivalent employees.

One exception to the normal notice and meeting location requirements is during an emergency. A governing body is allowed to meet at a location other than a regular meeting site, and without providing notice, during an emergency requiring expedited action by the governing body, such as a fire, flood, or earthquake.

Summary of Substitute Bill:

If a public agency determines, after the declaration of an emergency by a local or state government or agency or by the federal government, that a meeting of the governing body with public in-person attendance cannot be held with reasonable safety, then the governing body may limit public attendance at the meeting or may hold the meeting remotely.

If the meeting is held either with limited public attendance or held remotely, then the public agency must provide an option for the public to listen to the meeting. This may be through the telephone, on a local cable television station, over the Internet, or through some other means. Whatever option is chosen, it cannot require any cost other than the cost for the telephone, cable, Internet, or other service itself. If the public agency has not provided such an option, then no action may be taken at the meeting. Notice provided for a remote meeting or a meeting with limited public attendance must provide instructions for how the

public may attend remotely.

When there is a need for expedited action by a public agency to respond to an emergency, the agency may meet at a meeting site other than the regular meeting site, or may meet remotely or with limited public attendance, and the normal notice requirements are suspended during the emergency.

Public agencies may impose generally applicable conditions on attendance that the governing body determines to be reasonably necessary to protect public health or safety, to protect against interruption of the meeting, including in a remote meeting or a meeting with limited in-person attendance.

Most public agencies must post regular meeting agendas online at least 24 hours prior to the scheduled meeting. The only agencies not subject to this requirement are special purpose districts with fewer than \$400 million of taxable property and fewer than 3,000 people in the district that provide confirmation to the State Auditor that posting notice online would cost more than 0.1 percent of its budget. A public agency may share a website with, or have its website hosted by, another public agency. Notice of a special meeting must be posted on the agency's website if the meeting will be held remotely or with limited in-person attendance due to a declared emergency. Notice of other special meetings must also be posted online, unless the public agency does not have or share a website, has no full-time equivalent employees, or has no personnel whose duty it is to maintain or update the website. Notice of a special meeting does not need to be posted on the agency's principle location if the meeting will be held remotely or with limited in-person attendance due to a declared emergency if notice of the meeting is instead posted on the agency's website. Physical notice does not need to be posted when the posting cannot be done with reasonable safety under the circumstances.

Substitute Bill Compared to Original Bill

The substitute bill:

- clarifies that the authority to hold remote meetings during an emergency does not impact the ability of governing body members to appear remotely during other meetings;
- removes conditions necessary to access the system from the list of generally applicable conditions that can be imposed on meeting attendance; and
- exempts a special purpose district from the requirement to post an agenda online before a regular meeting if the district has less than \$400 million of taxable property and fewer than 3,000 people in the district and the district provides confirmation to the state auditor that posting notice of its website would cost more than 0.1 percent of its budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Public agencies have had to rely on emergency proclamations to allow them to operate with virtual meetings during the pandemic. Public agencies should not be forced to rely on the uncertainty of a proclamation, but should be able to plan ahead and to seamlessly continue operating in an emergency. The Open Public Meetings Act should be updated to make sure that business can be conducted during emergencies, and to update the use of technology in meetings to ensure that the public will still be engaged during emergencies. Agencies have become experienced at operating remotely over the course of the pandemic. The authority in this bill only applies if there is an emergency. Small districts could struggle with the agenda-posting requirements and should be exempted. Public meetings should be recorded for increased access. Recorded meetings could be uploaded to a hosting service to minimize the burden on agencies. It is important that there is notice of special meetings so that concerned citizens can be involved. Public comment is very important, and meetings that have been held since March have silenced the public. Many institutions have halted public comment and the public has been denied its voice.

(Opposed) None.

(Other) There is concern that the bill would not require a recording to be made of the remote meeting. A recording could be the official record of the meeting, and it would be useful to be able to refer back to the official recording held by a government entity.

Persons Testifying: (In support) Representative Gerry Pollet, prime sponsor; Candice Bock, Association of Washington Cities; Joe Kunzler; Mike Hoover, Washington State Association of Counties; Gary Wilson; Ryan Spiller, Washington Fire Commissioners Association; and Victoria Lincoln, Washington Public Ports Association.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Signed In To Testify But Not Testifying: None.