
SUBSTITUTE HOUSE BILL 1056

State of Washington

67th Legislature

2021 Regular Session

By House Local Government (originally sponsored by Representatives Pollet, Goehner, Kloba, Lekanoff, Leavitt, Senn, Callan, and Fey)

1 AN ACT Relating to open public meeting notice requirements and
2 declared emergencies; amending RCW 42.30.040, 42.30.050, 42.30.070,
3 42.30.077, 42.30.080, and 42.30.090; adding a new section to chapter
4 42.30 RCW; creating a new section; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that,
7 due to technological advances since the 1971 adoption of the open
8 public meetings act, elected officials no longer conduct the public's
9 business solely at in-person meetings, but can and do utilize
10 telephonic and other electronic methods to efficiently conduct the
11 business of state and local government remotely. Further, limitations
12 on public gatherings required as the result of a disaster or
13 emergency, for example, to assist in preventing the spread of
14 infectious diseases, may affirmatively necessitate the use of
15 technology and the avoidance of in-person attendance at public
16 meetings for the conduct of governmental business. It is the policy
17 of the state that a governing body's actions, including
18 deliberations, shall be taken and conducted in the open. When the
19 public cannot observe and participate in person, it may limit
20 participation in democracy. Therefore, this act shall be construed in
21 favor of ensuring access by the public to observe elected officials

1 when they meet pursuant to this act. It is the intent of this act to
2 modernize and update the open public meetings act emergency
3 procedures to reflect technological advances, while maintaining the
4 act's public policy that governing body's actions and deliberations
5 be taken and conducted openly while balancing public safety in
6 emergency conditions. Governing bodies are encouraged to adopt
7 resolutions or ordinances establishing where and how meetings will be
8 held in the event of an emergency, in order to allow the public to
9 more easily learn about and observe public agency action in an
10 emergent situation.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.30
12 RCW to read as follows:

13 (1) If, after the declaration of an emergency by a local or state
14 government or agency, or by the federal government, a public agency
15 determines that it cannot hold a meeting of the governing body with
16 members or public attendance in person with reasonable safety because
17 of the emergency, the public agency may:

18 (a) Hold a remote meeting of the governing body without a
19 physical location; or

20 (b) Hold a meeting of the governing body at which the physical
21 attendance by some or all members of the public is limited due to a
22 declared emergency.

23 (2) During a remote meeting, members of the governing body may
24 appear or attend by phone or by other electronic means that allows
25 real-time verbal communication without being in the same physical
26 location. For a remote meeting or a meeting at which the physical
27 attendance by some or all members of the public is limited due to a
28 declared emergency, the public agency must provide an option for the
29 public to listen to the proceedings telephonically or by using a
30 readily available alternative in real-time that does not require any
31 additional cost for participation. Free readily available options
32 include, but are not limited to, broadcast by the public agency on a
33 locally available cable television station that is available
34 throughout the jurisdiction or other electronic, internet, or other
35 means of remote access that does not require any additional cost for
36 access. The public agency may also allow the other electronic means
37 of remote access.

38 (3) No action may be taken at a remote meeting or a meeting at
39 which the physical attendance by some or all members of the public is

1 limited due to a declared emergency if the public agency has not
2 provided an option for the public to listen to proceedings pursuant
3 to subsection (2) of this section, except for an executive session as
4 authorized in this chapter.

5 (4) Notice of a remote meeting without a physical location or a
6 meeting at which the physical attendance by some or all members of
7 the public is limited due to a declared emergency must be provided in
8 accordance with this chapter and must include instructions on how the
9 public may listen live to proceedings and on how the public may
10 access any other electronic means of remote access offered by the
11 public agency.

12 (5) A remote meeting or a meeting at which the physical
13 attendance by some or all members of the public is limited due to a
14 declared emergency that is held under the provisions of this section
15 shall be considered open and public in compliance with the
16 requirements of this chapter. Nothing in this section alters the
17 ability of public agencies to take action in response to an emergency
18 as provided for in RCW 42.30.070, or to have some members of a
19 governing body participate in a meeting remotely with no declared
20 emergency.

21 **Sec. 3.** RCW 42.30.040 and 2012 c 117 s 124 are each amended to
22 read as follows:

23 A member of the public shall not be required, as a condition to
24 attendance at a meeting of a governing body, to register his or her
25 name and other information, to complete a questionnaire, or otherwise
26 to fulfill any condition precedent to his or her attendance. This
27 section does not prohibit any generally applicable conditions
28 determined by the governing body to be reasonably necessary to
29 protect the public health or safety, or to protect against
30 interruption of the meeting, including a meeting at which the
31 physical attendance by some or all members of the public is limited
32 due to a declared emergency.

33 **Sec. 4.** RCW 42.30.050 and 1971 ex.s. c 250 s 5 are each amended
34 to read as follows:

35 In the event that any meeting is interrupted by a group or groups
36 of persons so as to render the orderly conduct of such meeting
37 unfeasible and order cannot be restored by the removal of individuals
38 who are interrupting the meeting, the members of the governing body

1 conducting the meeting may order the meeting room cleared and
2 continue in session or may adjourn the meeting and reconvene at
3 another location selected by majority vote of the members. In such a
4 session, final disposition may be taken only on matters appearing on
5 the agenda. Representatives of the press or other news media, except
6 those participating in the disturbance, shall be allowed to attend
7 any session held pursuant to this section. Nothing in this section
8 shall prohibit the governing body from establishing a procedure for
9 readmitting an individual or individuals not responsible for
10 disturbing the orderly conduct of the meeting. Nothing in this
11 section prohibits the governing body from stopping people from
12 speaking to the governing body when not recognized by the governing
13 body to speak.

14 **Sec. 5.** RCW 42.30.070 and 1983 c 155 s 2 are each amended to
15 read as follows:

16 (1) The governing body of a public agency shall provide the time
17 for holding regular meetings by ordinance, resolution, bylaws, or by
18 whatever other rule is required for the conduct of business by that
19 body. Unless otherwise provided for in the act under which the public
20 agency was formed, meetings of the governing body need not be held
21 within the boundaries of the territory over which the public agency
22 exercises jurisdiction. If at any time any regular meeting falls on a
23 holiday, such regular meeting shall be held on the next business day.
24 If, by reason of fire, flood, earthquake, or other emergency, there
25 is a need for expedited action by a governing body to meet the
26 emergency, the presiding officer of the governing body may provide
27 for a meeting site other than the regular meeting site, for a remote
28 meeting without a physical location, or for a meeting at which the
29 physical attendance by some or all members of the public is limited
30 due to a declared emergency, and the notice requirements of this
31 chapter shall be suspended during such emergency. It shall not be a
32 violation of the requirements of this chapter for a majority of the
33 members of a governing body to travel together or gather for purposes
34 other than a regular meeting or a special meeting as these terms are
35 used in this chapter: PROVIDED, That they take no action as defined
36 in this chapter.

37 **Sec. 6.** RCW 42.30.077 and 2014 c 61 s 2 are each amended to read
38 as follows:

1 (1) Public agencies with governing bodies must make the agenda of
2 each regular meeting of the governing body available online no later
3 than (~~twenty-four~~) 24 hours in advance of the published start time
4 of the meeting. An agency subject to provisions of this section (~~is~~
5 ~~not required to post an agenda if it does not have a web site or if~~
6 ~~it employs fewer than ten full-time equivalent employees~~) may share
7 a website with, or have its website hosted by, another public agency
8 to post meeting agendas, minutes, budgets, contact information, and
9 other records, including any resolution or ordinance adopted by the
10 agency establishing where and how the public agency will meet in the
11 event of an emergency. Nothing in this section prohibits subsequent
12 modifications to agendas nor invalidates any otherwise legal action
13 taken at a meeting where the agenda was not posted in accordance with
14 this section. Nothing in this section modifies notice requirements or
15 shall be construed as establishing that a public body or agency's
16 online posting of an agenda as required by this section is sufficient
17 notice to satisfy public notice requirements established under other
18 laws. Failure to post an agenda in accordance with this section shall
19 not provide a basis for awarding attorney fees under RCW 42.30.120 or
20 commencing an action for mandamus or injunction under RCW 42.30.130.

21 (2) A special purpose district subject to the provisions of this
22 section is not required to post an agenda online if the district:

23 (a) Has an aggregate valuation of the property subject to
24 taxation by the district of less than \$400,000,000, as placed on the
25 last completed and balanced tax rolls of the county preceding the
26 date of the most recent tax levy;

27 (b) Has a population within its jurisdiction of under 3,000
28 persons; and

29 (c) Provides confirmation to the state auditor at the time it
30 files its annual reports under RCW 43.09.230 that the cost of posting
31 notices on a website of its own, a shared website, or on the website
32 of the county in which the largest portion of the district's
33 population resides, would exceed one-tenth of one percent of the
34 district's budget.

35 **Sec. 7.** RCW 42.30.080 and 2012 c 188 s 1 are each amended to
36 read as follows:

37 (1) A special meeting may be called at any time by the presiding
38 officer of the governing body of a public agency or by a majority of
39 the members of the governing body by delivering written notice

1 personally, by mail, by fax, or by ((~~electronic mail~~)) email to each
2 member of the governing body. Written notice shall be deemed waived
3 in the following circumstances:

4 (a) A member submits a written waiver of notice with the clerk or
5 secretary of the governing body at or prior to the time the meeting
6 convenes. A written waiver may be given by telegram, fax, or
7 ((~~electronic mail~~)) email; or

8 (b) A member is actually present at the time the meeting
9 convenes.

10 (2) Notice of a special meeting called under subsection (1) of
11 this section shall be:

12 (a) Delivered to each local newspaper of general circulation and
13 local radio or television station that has on file with the governing
14 body a written request to be notified of such special meeting or of
15 all special meetings;

16 (b) Posted on the agency's website. An agency is not required to
17 post a special meeting notice on its website if it ((~~i~~)) does not
18 have a website((~~;~~ ~~ii~~)) or share a website with another agency.
19 Except in the case of a remote meeting or a meeting at which the
20 physical attendance by some or all members of the public is limited
21 due to a declared emergency as provided for in this chapter, an
22 agency is not required to post a special meeting notice on its
23 website if it employs ((~~fewer than ten~~)) no full-time equivalent
24 employees((~~;~~)) or ((~~iii~~)) does not employ personnel whose duty, as
25 defined by a job description or existing contract, is to maintain or
26 update the website; and

27 (c) Prominently displayed at the main entrance of the agency's
28 principal location and the meeting site if it is not held at the
29 agency's principal location and is not held as a remote meeting;
30 except that during a declared emergency which prevents a meeting from
31 being held in-person with reasonable safety an agency that hosts a
32 website or shares a website with another agency may instead post
33 notice of a remote meeting without a physical location on the website
34 hosted or shared by the agency.

35 Such notice must be delivered or posted, as applicable, at least
36 ((~~twenty-four~~)) 24 hours before the time of such meeting as specified
37 in the notice.

38 (3) The call and notices required under subsections (1) and (2)
39 of this section shall specify the time and place of the special
40 meeting and the business to be transacted. Final disposition shall

1 not be taken on any other matter at such meetings by the governing
2 body.

3 (4) The notices provided in this section may be dispensed with in
4 the event a special meeting is called to deal with an emergency
5 involving injury or damage to persons or property or the likelihood
6 of such injury or damage, when time requirements of such notice would
7 make notice impractical and increase the likelihood of such injury or
8 damage, or when the required notice cannot be posted or displayed
9 with reasonable safety, including but not limited to declared
10 emergencies in which travel to physically post notice is barred or
11 advised against.

12 **Sec. 8.** RCW 42.30.090 and 2012 c 117 s 125 are each amended to
13 read as follows:

14 The governing body of a public agency may adjourn any regular,
15 adjourned regular, special, or adjourned special meeting to a time
16 and place specified in the order of adjournment. Less than a quorum
17 may so adjourn from time to time. If all members are absent from any
18 regular or adjourned regular meeting the clerk or secretary of the
19 governing body may declare the meeting adjourned to a stated time and
20 place. He or she shall cause a written notice of the adjournment to
21 be given in the same manner as provided in RCW 42.30.080 for special
22 meetings, unless such notice is waived as provided for special
23 meetings. (~~Whenever~~) Except in the case of remote meetings without
24 a physical location as provided for in this chapter, whenever any
25 meeting is adjourned a copy of the order or notice of adjournment
26 shall be conspicuously posted immediately after the time of the
27 adjournment on or near the door of the place where the regular,
28 adjourned regular, special, or adjourned special meeting was held.
29 When a regular or adjourned regular meeting is adjourned as provided
30 in this section, the resulting adjourned regular meeting is a regular
31 meeting for all purposes. When an order of adjournment of any meeting
32 fails to state the hour at which the adjourned meeting is to be held,
33 it shall be held at the hour specified for regular meetings by
34 ordinance, resolution, bylaw, or other rule.

35 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

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