

SENATE BILL NO. 156—SENATOR OHRENSCHALL

FEBRUARY 14, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises the Open Meeting Law. (BDR 19-884)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental administration; setting forth certain requirements for a public body to conduct a meeting by means of a remote technology system during certain emergencies; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Open Meeting Law sets forth certain requirements for a public body to
2 hold a meeting by means of a remote technology system. (NRS 241.023) This bill
3 adds to the Open Meeting Law certain requirements for a public body to hold a
4 meeting by means of a remote technology system while an emergency declaration
5 is in effect.

6 **Section 6** of this bill provides that the provisions of **sections 2-14** of this bill
7 that apply to a meeting of a public body held by means of a remote technology
8 system while an emergency declaration is in effect do not limit or supersede any
9 other provision of law that authorizes a public body to allow a member of the
10 public body to participate in, or a member of the public to observe or participate in,
11 a meeting by means of a remote technology system.

12 **Section 7** of this bill authorizes, under certain circumstances, a public body to
13 conduct a meeting by means of a remote technology system during a time that an
14 emergency declaration that applies to all or part of the jurisdiction of the public
15 body is in effect. **Section 7** also provides that: (1) an action taken by a public body
16 at such a meeting has the same effect as an action taken in a meeting of the public
17 body that is not conducted by means of a remote technology system pursuant to
18 **sections 2-14**; and (2) any other provision of the Open Meeting Law that applies to
19 a meeting of a public body applies, to the extent practicable, to a meeting of the
20 public body that is conducted by means of a remote technology system pursuant to
21 **sections 2-14**.

22 **Section 8** of this bill sets forth certain requirements for a remote technology
23 system that is used pursuant to **sections 2-14**, including that the remote
24 technology system must: (1) to the extent practicable, be compatible with assistive
25 technology commonly used by persons with disabilities and that facilitates the



26 accommodation of needs of persons with disabilities to access the meeting; and (2)
27 allow each member of the public body who attends the meeting to see and hear, and
28 to be seen and heard by, other members of the public body. **Section 8** further sets
29 forth certain circumstances under which a public body may conduct a meeting by
30 audio-only access. Finally, **section 8** requires: (1) each member of a public body
31 who attends a meeting conducted by means of a remote technology system that
32 provides audio-only access to state the member's name every time the member
33 speaks; (2) a vote taken in the meeting to be by a process that identifies the vote of
34 each member of the public body; and (3) the minutes of the meeting to include
35 certain information.

36 **Section 9** of this bill: (1) requires a public body to allow members of the public
37 to observe contemporaneously a meeting conducted pursuant to **sections 2-14** or
38 any part of the meeting that is not authorized to be a closed meeting; and (2)
39 provides that the existing provisions of the Open Meeting Law relating to
40 supporting material apply to such a meeting.

41 **Section 10** of this bill requires a public body, to the extent practicable, to allow
42 a member of the public to participate in a meeting conducted by means of a remote
43 technology system to the same extent that the member of the public may participate
44 in other meetings of the public body. **Section 10** also authorizes certain persons to
45 object that a meeting conducted by means of a remote technology system does not
46 allow the person to protect effectively the person's right or interest.

47 **Section 11** of this bill sets forth certain notice requirements for a meeting
48 conducted by means of a remote technology system that are in addition to the
49 notice requirements set forth in existing law. (NRS 241.020)

50 **Section 12** of this bill provides that the provisions of **sections 2-14** modify,
51 limit and supersede the federal Electronic Signatures in Global and National
52 Commerce Act, 15 U.S.C. § 7001 et seq.

53 **Section 13** of this bill provides that if any provision of **sections 2-14** is held
54 invalid, such invalidity does not affect the validity of the remaining portions of
55 those sections.

56 **Section 14** authorizes the Attorney General to adopt regulations to carry out the
57 provisions of **sections 2-14**.

58 **Section 15** of this bill makes a conforming change to provide an exception to
59 the requirements of the Open Meeting Law that generally apply to a meeting of a
60 public body conducted by means of a remote technology system.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 241 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 14, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 14, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3, 4 and 5 of this act have the meanings ascribed to*
7 *them in those sections.*

8 **Sec. 3.** *“Emergency declaration” means a declaration of*
9 *emergency by a person or entity authorized to do so pursuant to*
10 *the laws of this State.*

11 **Sec. 4.** *“Observe” means to listen to or watch, regardless of*
12 *whether a person is authorized to participate.*



1 **Sec. 5.** *“Participate” means to speak or submit a comment.*

2 **Sec. 6.** 1. *The provisions of sections 2 to 14, inclusive, of*
3 *this act apply to the conduct of a meeting by means of a remote*
4 *technology system only while an emergency declaration is in*
5 *effect.*

6 2. *The provisions of sections 2 to 14, inclusive, of this act do*
7 *not limit or supersede any other provision of law that authorizes a*
8 *public body to allow a member of the public body to participate, or*
9 *a member of the public to observe or participate, in a meeting by*
10 *means of a remote technology system when an emergency*
11 *declaration is not in effect.*

12 **Sec. 7.** 1. *A public body may conduct a meeting by means*
13 *of a remote technology system pursuant to sections 2 to 14,*
14 *inclusive, of this act during a time that an emergency declaration*
15 *that applies to all or part of the jurisdiction of the public body is in*
16 *effect if:*

17 (a) *The emergency declaration prohibits, limits or has the*
18 *effect of prohibiting or limiting an in-person meeting of the public*
19 *body; or*

20 (b) *The presiding officer of the public body or other person*
21 *authorized to act for the public body:*

22 (1) *Determines that it is not practical or prudent for the*
23 *public body to conduct a meeting at a physical location because of*
24 *the emergency;*

25 (2) *Communicates to the members of the public body that*
26 *the meeting will be conducted by means of a remote technology*
27 *system; and*

28 (3) *Takes reasonable steps to inform the members of the*
29 *public that the meeting will be conducted by means of a remote*
30 *technology system.*

31 2. *An action taken in a meeting conducted by means of a*
32 *remote technology system that complies with provisions of sections*
33 *2 to 14, inclusive, of this act has the same effect as an action taken*
34 *in a meeting of the public body that is not conducted by means of a*
35 *remote technology system pursuant to sections 2 to 14, inclusive,*
36 *of this act.*

37 3. *Any other provision of this chapter that applies to a*
38 *meeting of a public body applies, to the extent practicable, to a*
39 *meeting conducted by means of a remote technology system*
40 *pursuant to sections 2 to 14, inclusive, of this act.*

41 **Sec. 8.** 1. *A meeting conducted by means of a remote*
42 *technology system pursuant to sections 2 to 14, inclusive, of this*
43 *act, to the extent practicable, must use a remote technology system*
44 *that is compatible with assistive technology commonly used by*



1 *persons with disabilities and that facilitates the accommodation of*
2 *needs of persons with disabilities to access the meeting.*

3 2. *Except as otherwise provided in subsections 3 and 4, the*
4 *remote technology system used to conduct a meeting by remote*
5 *technology system pursuant to sections 2 to 14, inclusive, of this*
6 *act must allow each member of the public body who attends the*
7 *meeting, contemporaneously and throughout the meeting, to see*
8 *and hear, and to be seen and heard by, the other members of the*
9 *public body who attend the meeting.*

10 3. *If a member of a public body is unable to obtain visual*
11 *access to the meeting but is able to obtain audio access that*
12 *permits the member contemporaneously and throughout the*
13 *meeting to hear and be heard by the other members of the public*
14 *body who attend the meeting, the member may attend the meeting*
15 *by audio-only access.*

16 4. *If a public body lacks the capacity to provide*
17 *contemporaneous visual access to a meeting conducted by means*
18 *of a remote technology system pursuant to sections 2 to 14,*
19 *inclusive, of this act for members of the public body, the public*
20 *body may conduct the meeting by audio-only access that permits*
21 *each member of the public body who attends the meeting,*
22 *contemporaneously and throughout the meeting, to hear and be*
23 *heard by the other members of the public body who attend the*
24 *meeting.*

25 5. *A member of a public body who attends a meeting*
26 *conducted by means of a remote technology system pursuant to*
27 *sections 2 to 14, inclusive, of this act is considered present for all*
28 *purposes, including, without limitation, for determination of a*
29 *quorum and voting, so long as contemporaneously and*
30 *throughout the meeting the member can:*

31 (a) *For a meeting conducted in compliance with subsection 2,*
32 *see and hear and be seen and heard by the other members of the*
33 *public body who attend the meeting; or*

34 (b) *For a meeting conducted in compliance with subsection 3*
35 *or 4, hear and be heard by the other members of the public body*
36 *who attend the meeting.*

37 6. *A member of a public body who attends a meeting*
38 *conducted by means of a remote technology system pursuant to*
39 *sections 2 to 14, inclusive, of this act that provides audio-only*
40 *access to the meeting shall state the member's name each time the*
41 *member speaks. A member's failure to state the member's name*
42 *does not invalidate an action taken in the meeting.*

43 7. *A vote taken in a meeting conducted by means of a remote*
44 *technology system pursuant to sections 2 to 14, inclusive, of this*



1 *act must be by a process that identifies the vote of each member of*
2 *the public body.*

3 *8. The minutes of a meeting conducted by means of a remote*
4 *technology system pursuant to sections 2 to 14, inclusive, of this*
5 *act must report any vote taken, state that the meeting was*
6 *conducted by remote technology system, identify the remote*
7 *technology system that was used and identify the members of the*
8 *public body who attended by means of the remote technology*
9 *system.*

10 **Sec. 9. 1.** *A public body shall allow members of the public*
11 *to observe contemporaneously a meeting conducted by means of a*
12 *remote technology system pursuant to sections 2 to 14, inclusive,*
13 *of this act, or any part of the meeting that is not authorized to be a*
14 *closed meeting pursuant to any specific provision of law. The*
15 *public body shall provide the technological means to allow*
16 *members of the public who observe the meeting to see and hear or,*
17 *if the public body conducts the meeting by audio-only access, to*
18 *hear members of the public body and members of the public*
19 *authorized by the public body to speak in the meeting.*

20 *2. The provisions of subsection 8 of NRS 241.020 apply to*
21 *supporting material of a meeting conducted by means of a remote*
22 *technology system pursuant to sections 2 to 14, inclusive, of this*
23 *act.*

24 **Sec. 10. 1.** *A public body shall, to the extent practicable,*
25 *allow a member of the public to participate in a meeting conducted*
26 *by means of a remote technology system pursuant to sections 2 to*
27 *14, inclusive, of this act to the same extent that the member of the*
28 *public may participate in a meeting of the public body that is not*
29 *conducted by means of a remote technology system pursuant to*
30 *sections 2 to 14, inclusive, of this act.*

31 *2. If a member of the public is allowed to speak in a meeting*
32 *conducted by means of a remote technology system pursuant to*
33 *sections 2 to 14, inclusive, of this act, the remote technology*
34 *system that is used to conduct the meeting must allow members of*
35 *the public body and members of the public attending the meeting*
36 *to hear any person who speaks in the meeting.*

37 *3. If, at a meeting conducted by means of a remote*
38 *technology system pursuant to sections 2 to 14, inclusive, of this*
39 *act, a public body considers a matter affecting the right or interest*
40 *of a person who would be entitled by law to participate, present*
41 *evidence or examine or cross-examine witnesses in any other*
42 *meeting of the public body, the public body shall permit the person*
43 *to use the same remote technology system that the public body*
44 *uses to conduct the meeting, or provide equivalent access, to*



1 *participate, present evidence, or examine or cross-examine*
2 *witnesses in the meeting.*

3 *4. A person to which subsection 3 applies may object that a*
4 *meeting conducted by means of a remote technology system*
5 *pursuant to sections 2 to 14, inclusive, of this act does not allow*
6 *the person to protect effectively the person's right or interest. The*
7 *public body shall consider the objection and may proceed with the*
8 *matter in the meeting if the public body determines the meeting*
9 *will allow the person effectively to protect the right or interest. The*
10 *public body shall state in the minutes of the meeting the*
11 *determination and the reason for the determination.*

12 **Sec. 11.** *In addition to any other requirement concerning the*
13 *notice a public body must give for a meeting of the public body*
14 *pursuant to NRS 241.020, notice of a meeting conducted by means*
15 *of a remote technology system pursuant to sections 2 to 14,*
16 *inclusive, of this act must specify:*

17 *1. That the meeting will be a meeting conducted by means of*
18 *a remote technology system pursuant to sections 2 to 14, inclusive,*
19 *of this act;*

20 *2. The remote technology system that will be used for the*
21 *meeting;*

22 *3. How a member of the public may observe the meeting*
23 *contemporaneously;*

24 *4. How members of the public may participate, present*
25 *evidence, or examine or cross-examine witnesses in the meeting, if*
26 *applicable;*

27 *5. How a member of the public may alert the public body of a*
28 *technical problem preventing access to the meeting; and*

29 *6. How a reasonable accommodation may be requested by or*
30 *for a member of the public with a disability.*

31 **Sec. 12.** *The provisions of sections 2 to 14, inclusive, of this*
32 *act modify, limit and supersede the federal Electronic Signatures*
33 *in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq.,*
34 *but do not modify, limit or supersede 15 U.S.C. § 7001(c), or*
35 *authorize electronic delivery of any of the notices described in 15*
36 *U.S.C. § 7003(b).*

37 **Sec. 13.** *If any provision of sections 2 to 14, inclusive, of this*
38 *act is held invalid, such invalidity does not affect the validity of the*
39 *remaining portions of those sections.*

40 **Sec. 14.** *The Attorney General may adopt regulations to*
41 *carry out the provisions of sections 2 to 14, inclusive, of this act,*
42 *including, without limitation, regulations that set forth:*

43 *1. The means by which a public body will inform members of*
44 *the public that a meeting conducted by means of a remote*



1 *technology system pursuant to sections 2 to 14, inclusive, of this*
2 *act will be held;*


3 2. *The effect of a technical problem that interferes with the*
4 *meeting or access to the meeting by a member of the public body*
5 *or a member of the public;*

6 3. *The means by which supporting material that was*
7 *considered in a meeting conducted by means of a remote*
8 *technology system pursuant to sections 2 to 14, inclusive, of this*
9 *act is made available to the public body and members of the*
10 *public;*

11 4. *The means for access to a meeting conducted by means of*
12 *a remote technology system pursuant to sections 2 to 14, inclusive,*
13 *of this act by a person with a disability; and*

14 5. *The process by which a person may object pursuant to*
15 *subsection 4 of section 10 of this act.*

16 **Sec. 15.** NRS 241.023 is hereby amended to read as follows:

17 241.023 1. Except as otherwise provided in subsection 2  **and sections 2 to 14, inclusive, of this act,** a public body may
18 conduct a meeting by means of a remote technology system if:

19 (a) A quorum is actually or collectively present, whether in
20 person, by using the remote technology system or by means of
21 electronic communication.

22 (b) Members of the public are permitted to:

23 (1) Attend and participate at a physical location designated
24 for the meeting where members of the public are permitted to attend
25 and participate; or

26 (2) Hear and observe the meeting, participate in the meeting
27 by telephone and provide live public comment during the meeting
28 using the remote technology system. A public body may also allow
29 public comment by means of prerecorded messages.

30 (c) The public body reasonably ensures that any person who is
31 not a member of the public body or a member of the public but is
32 otherwise required or allowed to participate in the meeting is able to
33 participate in the portion of the meeting that pertains to the person
34 using the remote technology system. The public body shall be
35 deemed to have complied with the requirements of this paragraph if
36 the public body provides the person with a web-based link and a
37 telephone number, in case of technical difficulties, that allows the
38 person in real time to attend and participate in the meeting. Nothing
39 in this paragraph requires a public body to provide a person with
40 technical support to address the person's individual hardware,
41 software or other technical issues.

42 2. If all members of a public body:

43 (a) Are required to be elected officials, the public body shall not
44 conduct a meeting by means of a remote technology system without
45



1 a physical location designated for the meeting where members of
2 the public are permitted to attend and participate.

3 (b) Are not required to be elected officials, the public body shall
4 not conduct a meeting by means of a remote technology system
5 without a physical location designated for the meeting where
6 members of the public are permitted to attend and participate unless
7 the public body complies with the provisions of subsection 11 of
8 NRS 241.020.

9 3. If any member of a public body attends a meeting by means
10 of a remote technology system, the chair of the public body, or his
11 or her designee, must make reasonable efforts to ensure that:

12 (a) Members of the public body and members of the public
13 present at the physical location of the meeting can hear or observe
14 each member attending by a remote technology system; and

15 (b) Each member of the public body in attendance can
16 participate in the meeting.

17 **Sec. 16.** 1. This section becomes effective upon passage and
18 approval.

19 2. Sections 1 to 15, inclusive, of this act become effective:

20 (a) Upon passage and approval for the purpose of adopting any
21 regulations and performing any other preparatory administrative
22 tasks that are necessary to carry out the provisions of this act; and

23 (b) On January 1, 2024, for all other purposes.

