

OPEN AND PUBLIC MEETINGS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

▶ provides that a conversation between members of a three-member public body in the ordinary course of their duties does not constitute a meeting for purposes of the Open and Public Meetings Act under certain conditions; and

▶ makes a technical change.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441

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

Section 1. Section **52-4-103** is amended to read:

52-4-103. Definitions.

As used in this chapter:



- 28 (1) "Anchor location" means the physical location from which:
- 29 (a) an electronic meeting originates; or
- 30 (b) the participants are connected.
- 31 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by
- 32 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
- 33 City.
- 34 (3) "Convening" means the calling together of a public body by a person authorized to
- 35 do so for the express purpose of discussing or acting upon a subject over which that public
- 36 body has jurisdiction or advisory power.
- 37 (4) "Electronic meeting" means a public meeting convened or conducted by means of a
- 38 conference using electronic communications.
- 39 (5) "Electronic message" means a communication transmitted electronically, including:
- 40 (a) electronic mail;
- 41 (b) instant messaging;
- 42 (c) electronic chat;
- 43 (d) text messaging as defined in Section 76-4-401; or
- 44 (e) any other method that conveys a message or facilitates communication
- 45 electronically.
- 46 (6) (a) "Meeting" means the convening of a public body or a specified body, with a
- 47 quorum present, including a workshop or an executive session, whether in person or by means
- 48 of electronic communications, for the purpose of discussing, receiving comments from the
- 49 public about, or acting upon a matter over which the public body or [~~specific~~] specified body
- 50 has jurisdiction or advisory power.
- 51 (b) "Meeting" does not mean:
- 52 (i) a chance gathering or social gathering; [~~or~~]
- 53 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
- 54 accordance with Section 59-1-405[~~;~~]; or
- 55 (iii) a conversation between members of a three-member public body in the ordinary
- 56 course of the members' duties if the public body members do not, during the conversation, take
- 57 or attempt to take binding action on the matter that is the subject of the conversation.
- 58 (c) "Meeting" does not mean the convening of a public body that has both legislative

59 and executive responsibilities if:

60 (i) no public funds are appropriated for expenditure during the time the public body is
61 convened; and

62 (ii) the public body is convened solely for the discussion or implementation of
63 administrative or operational matters:

64 (A) for which no formal action by the public body is required; or

65 (B) that would not come before the public body for discussion or action.

66 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
67 public statements of each member of the public body who is participating in a meeting.

68 (8) "Participate" means the ability to communicate with all of the members of a public
69 body, either verbally or electronically, so that each member of the public body can hear or
70 observe the communication.

71 (9) (a) "Public body" means:

72 (i) any administrative, advisory, executive, or legislative body of the state or its
73 political subdivisions that:

74 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

75 (B) consists of two or more persons;

76 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

77 (D) is vested with the authority to make decisions regarding the public's business; or

78 (ii) any administrative, advisory, executive, or policymaking body of an association, as
79 defined in Section [53A-1-1601](#), that:

80 (A) consists of two or more persons;

81 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

82 school or whose employees participate in a benefit or program described in Title 49, Utah State
83 Retirement and Insurance Benefit Act; and

84 (C) is vested with authority to make decisions regarding the participation of a public
85 school or student in an interscholastic activity as defined in Section [53A-1-1601](#).

86 (b) "Public body" includes:

87 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative
88 undertaking; and

89 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

- 90 (c) "Public body" does not include:
- 91 (i) a political party, a political group, or a political caucus;
- 92 (ii) a conference committee, a rules committee, or a sifting committee of the
- 93 Legislature;
- 94 (iii) a school community council or charter trust land council as defined in Section
- 95 [53A-1a-108.1](#); or
- 96 (iv) the Economic Development Legislative Liaison Committee created in Section
- 97 [36-30-201](#).
- 98 (10) "Public statement" means a statement made in the ordinary course of business of
- 99 the public body with the intent that all other members of the public body receive it.
- 100 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
- 101 otherwise defined by applicable law.
- 102 (b) "Quorum" does not include a meeting of two elected officials by themselves when
- 103 no action, either formal or informal, is taken on a subject over which these elected officials
- 104 have advisory power.
- 105 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
- 106 meeting that can be used to review the proceedings of the meeting.
- 107 (13) "Specified body":
- 108 (a) means an administrative, advisory, executive, or legislative body that:
- 109 (i) is not a public body;
- 110 (ii) consists of three or more members; and
- 111 (iii) includes at least one member who is:
- 112 (A) a legislator; and
- 113 (B) officially appointed to the body by the president of the Senate, speaker of the
- 114 House of Representatives, or governor; and
- 115 (b) does not include a body listed in Subsection (9)(c)(ii).
- 116 (14) "Transmit" means to send, convey, or communicate an electronic message by
- 117 electronic means.