

**TAX COMMISSION AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Wayne A. Harper

---

---

**LONG TITLE**

**General Description:**

This bill exempts certain State Tax Commission functions from the Open and Public Meetings Act.

**Highlighted Provisions:**

This bill:

- ▶ exempts the State Tax Commission from the Open and Public Meetings Act when considering or acting on certain confidential tax matters;
- ▶ grants rulemaking authority to the State Tax Commission to establish procedures and requirements related to a meeting that is not open to the public; and
- ▶ makes technical and conforming changes.

**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 2007, Chapters 35 and 45

ENACTS:

**59-1-405**, Utah Code Annotated 1953

---

---

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

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

30 **52-4-103. Definitions.**

31 As used in this chapter:

32 (1) "Anchor location" means the physical location from which:

33 (a) an electronic meeting originates; or

34 (b) the participants are connected.

35 (2) "Convening" means the calling of a meeting of a public body by a person

36 authorized to do so for the express purpose of discussing or acting upon a subject over which

37 that public body has jurisdiction or advisory power.

38 (3) "Electronic meeting" means a public meeting convened or conducted by means of a

39 conference using electronic communications.

40 (4) (a) "Meeting" means the convening of a public body, with a quorum present,

41 including a workshop or an executive session whether the meeting is held in person or by

42 means of electronic communications, for the purpose of discussing, receiving comments from

43 the public about, or acting upon a matter over which the public body has jurisdiction or

44 advisory power.

45 (b) "Meeting" does not mean:

46 (i) a chance meeting;

47 (ii) a social meeting; ~~or~~

48 (iii) the convening of a public body that has both legislative and executive

49 responsibilities where no public funds are appropriated for expenditure during the time the

50 public body is convened and:

51 (A) the public body is convened solely for the discussion or implementation of

52 administrative or operational matters for which no formal action by the public body is required;

53 or

54 (B) the public body is convened solely for the discussion or implementation of

55 administrative or operational matters that would not come before the public body for

56 discussion or action[-]; or

57 (iv) a meeting of the State Tax Commission to consider a confidential tax matter in

58 accordance with Section 59-1-405.

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

61 (6) "Participate" means the ability to communicate with all of the members of a public  
62 body, either verbally or electronically, so that each member of the public body can hear or  
63 observe the communication.

64 (7) (a) "Public body" means any administrative, advisory, executive, or legislative body  
65 of the state or its political subdivisions that:

- 66 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- 67 (ii) consists of two or more persons;
- 68 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 69 (iv) is vested with the authority to make decisions regarding the public's business.

70 (b) "Public body" does not include a:

- 71 (i) political party, political group, or political caucus; or
- 72 (ii) conference committee, rules committee, or sifting committee of the Legislature.

73 (8) "Public statement" means a statement made in the ordinary course of business of  
74 the public body with the intent that all other members of the public body receive it.

75 (9) (a) "Quorum" means a simple majority of the membership of a public body, unless  
76 otherwise defined by applicable law.

77 (b) "Quorum" does not include a meeting of two elected officials by themselves when  
78 no action, either formal or informal, is taken on a subject over which these elected officials  
79 have advisory power.

80 (10) "Recording" means an audio, or an audio and video, record of the proceedings of a  
81 meeting that can be used to review the proceedings of the meeting.

82 Section 2. Section **59-1-405** is enacted to read:

83 **59-1-405. Commission consideration of confidential tax matters.**

84 (1) As used in this section, "confidential tax matter" means:

85 (a) an offer in compromise;

- 86           (b) a private letter ruling;
- 87           (c) an appeal before the members of the commission;
- 88           (d) a tax matter if the disclosure of the tax matter is prohibited under:
- 89           (i) federal law;
- 90           (ii) Section 59-1-403; or
- 91           (iii) Section 59-1-404;
- 92           (e) a voluntary disclosure agreement; or
- 93           (f) a waiver request.
- 94           (2) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, the
- 95 commission may hold a meeting that is not open to the public to conduct a hearing on, discuss,
- 96 or take action on a confidential tax matter in accordance with the rules established as provided
- 97 under this section.
- 98           (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 99 commission shall make rules:
- 100           (a) to establish procedures for holding a meeting that is not open to the public to
- 101 conduct a hearing on, discuss, or take action on a confidential tax matter; and
- 102           (b) except as provided in Subsection (4), to establish procedures and requirements for
- 103 keeping confidential minutes and a confidential recording of a meeting that is not open to the
- 104 public.
- 105           (4) For purposes of Subsection (3)(b), the commission is not required to make rules to
- 106 establish procedures and requirements for keeping confidential minutes and a confidential
- 107 recording of:
- 108           (a) an initial hearing to the extent provided in Section 59-1-502.5; or
- 109           (b) private analysis, contemplation, and discussion by members of the commission:
- 110           (i) in performing the judicial aspects of their duties; and
- 111           (ii) consistent with state case law.