
ENGROSSED SUBSTITUTE HOUSE BILL 1329

State of Washington

67th Legislature

2021 Regular Session

By House Local Government (originally sponsored by Representatives Wicks, Pollet, Taylor, Ryu, Wylie, Shewmake, Bateman, Lovick, Fey, Morgan, Lekanoff, Harris-Talley, and Peterson)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to public meeting accessibility and
2 participation; amending RCW 42.30.010, 42.30.030, 42.30.110, and
3 42.30.900; adding new sections to chapter 42.30 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds people participating
7 in their government, especially through public comment, is an
8 essential part of developing public policy. The legislature further
9 finds that there are numerous developing technologies that can be
10 used to facilitate public comment, especially for those with
11 disabilities, underserved communities, and those who face time or
12 distance challenges when traveling to public meetings. Therefore, the
13 legislature intends to encourage public agencies to make use of
14 remote access tools as fully as practicable to encourage public
15 engagement and better serve their communities.

16 **Sec. 2.** RCW 42.30.010 and 1971 ex.s. c 250 s 1 are each amended
17 to read as follows:

18 The legislature finds and declares that all public commissions,
19 boards, councils, committees, subcommittees, departments, divisions,
20 offices, and all other public agencies of this state and subdivisions

1 thereof exist to aid in the conduct of the people's business. It is
2 the intent of this chapter that their actions be taken openly and
3 that their deliberations be conducted openly.

4 The people of this state do not yield their sovereignty to the
5 agencies which serve them. The people, in delegating authority, do
6 not give their public servants the right to decide what is good for
7 the people to know and what is not good for them to know. The people
8 insist on remaining informed and informing the people's public
9 servants of their views so that they may retain control over the
10 instruments they have created. For these reasons, even when not
11 required by law, public agencies are encouraged to incorporate and
12 accept public comment during their decision-making process.

13 **Sec. 3.** RCW 42.30.030 and 1971 ex.s. c 250 s 3 are each amended
14 to read as follows:

15 (1) All meetings of the governing body of a public agency shall
16 be open and public and all persons shall be permitted to attend any
17 meeting of the governing body of a public agency, except as otherwise
18 provided in this chapter.

19 (2) Public agencies are encouraged to provide for the increased
20 ability of the public to observe and participate in the meetings of
21 governing bodies through real-time telephonic, electronic, internet,
22 or other readily available means of remote access that do not require
23 an additional cost to access the meeting.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.30
25 RCW to read as follows:

26 (1) Public agencies are encouraged to make an audio or video
27 recording of, or to provide an online streaming option for, all
28 regular meetings of its governing body, and to make recordings of
29 these meetings available online for a minimum of six months.

30 (2) This section does not alter a local government's
31 recordkeeping requirements under chapter 42.56 RCW.

32 **Sec. 5.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to
33 read as follows:

34 (1) Nothing contained in this chapter may be construed to prevent
35 a governing body from holding an executive session during a regular
36 or special meeting:

37 (a) (i) To consider matters affecting national security;

1 (ii) To consider, if in compliance with any required data
2 security breach disclosure under RCW 19.255.010 and 42.56.590, and
3 with legal counsel available, information regarding the
4 infrastructure and security of computer and telecommunications
5 networks, security and service recovery plans, security risk
6 assessments and security test results to the extent that they
7 identify specific system vulnerabilities, and other information that
8 if made public may increase the risk to the confidentiality,
9 integrity, or availability of agency security or to information
10 technology infrastructure or assets;

11 (b) To consider the selection of a site or the acquisition of
12 real estate by lease or purchase when public knowledge regarding such
13 consideration would cause a likelihood of increased price;

14 (c) To consider the minimum price at which real estate will be
15 offered for sale or lease when public knowledge regarding such
16 consideration would cause a likelihood of decreased price. However,
17 final action selling or leasing public property shall be taken in a
18 meeting open to the public;

19 (d) To review negotiations on the performance of publicly bid
20 contracts when public knowledge regarding such consideration would
21 cause a likelihood of increased costs;

22 (e) To consider, in the case of an export trading company,
23 financial and commercial information supplied by private persons to
24 the export trading company;

25 (f) To receive and evaluate complaints or charges brought against
26 a public officer or employee. However, upon the request of such
27 officer or employee, a public hearing or a meeting open to the public
28 shall be conducted upon such complaint or charge;

29 (g) To evaluate the qualifications of an applicant for public
30 employment or to review the performance of a public employee.
31 However, subject to RCW 42.30.140(4), discussion by a governing body
32 of salaries, wages, and other conditions of employment to be
33 generally applied within the agency shall occur in a meeting open to
34 the public, and when a governing body elects to take final action
35 hiring, setting the salary of an individual employee or class of
36 employees, or discharging or disciplining an employee, that action
37 shall be taken in a meeting open to the public;

38 (h) To evaluate the qualifications of a candidate for appointment
39 to elective office. However, any interview of such candidate and

1 final action appointing a candidate to elective office shall be in a
2 meeting open to the public;

3 (i) To discuss with legal counsel representing the agency matters
4 relating to agency enforcement actions, or to discuss with legal
5 counsel representing the agency litigation or potential litigation to
6 which the agency, the governing body, or a member acting in an
7 official capacity is, or is likely to become, a party, when public
8 knowledge regarding the discussion is likely to result in an adverse
9 legal or financial consequence to the agency.

10 This subsection (1)(i) does not permit a governing body to hold
11 an executive session solely because an attorney representing the
12 agency is present. For purposes of this subsection (1)(i), "potential
13 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
14 concerning:

15 (i) Litigation that has been specifically threatened to which the
16 agency, the governing body, or a member acting in an official
17 capacity is, or is likely to become, a party;

18 (ii) Litigation that the agency reasonably believes may be
19 commenced by or against the agency, the governing body, or a member
20 acting in an official capacity; or

21 (iii) Litigation or legal risks of a proposed action or current
22 practice that the agency has identified when public discussion of the
23 litigation or legal risks is likely to result in an adverse legal or
24 financial consequence to the agency;

25 (j) To consider, in the case of the state library commission or
26 its advisory bodies, western library network prices, products,
27 equipment, and services, when such discussion would be likely to
28 adversely affect the network's ability to conduct business in a
29 competitive economic climate. However, final action on these matters
30 shall be taken in a meeting open to the public;

31 (k) To consider, in the case of the state investment board,
32 financial and commercial information when the information relates to
33 the investment of public trust or retirement funds and when public
34 knowledge regarding the discussion would result in loss to such funds
35 or in private loss to the providers of this information;

36 (l) To consider proprietary or confidential nonpublished
37 information related to the development, acquisition, or
38 implementation of state purchased health care services as provided in
39 RCW 41.05.026;

1 (m) To consider in the case of the life sciences discovery fund
2 authority, the substance of grant applications and grant awards when
3 public knowledge regarding the discussion would reasonably be
4 expected to result in private loss to the providers of this
5 information;

6 (n) To consider in the case of a health sciences and services
7 authority, the substance of grant applications and grant awards when
8 public knowledge regarding the discussion would reasonably be
9 expected to result in private loss to the providers of this
10 information;

11 (o) To consider information regarding staff privileges or quality
12 improvement committees under RCW 70.41.205.

13 (2) Before convening in executive session, the presiding officer
14 of a governing body shall publicly announce the purpose for excluding
15 the public from the meeting place, and the time when the executive
16 session will be concluded. The executive session may be extended to a
17 stated later time by announcement of the presiding officer. The
18 announced purpose of excluding the public must be entered into the
19 minutes of the meeting required by RCW 42.30.035.

20 NEW SECTION. Sec. 6. A new section is added to chapter 42.30
21 RCW to read as follows:

22 (1) Except in an emergency situation, the governing body of a
23 public agency shall provide an opportunity at or before every regular
24 meeting at which final action is taken for public comment. The public
25 comment required under this section may be taken orally at a public
26 meeting, or by providing an opportunity for written testimony to be
27 submitted before or at the meeting. If the governing body accepts
28 written testimony, this testimony must be distributed to the
29 governing body. The governing body may set a reasonable deadline for
30 the submission of written testimony before the meeting.

31 (2) Upon the request of any individual who will have difficulty
32 attending a meeting of the governing body of a public agency by
33 reason of disability, limited mobility, or for any other reason that
34 makes physical attendance at a meeting difficult, the governing body
35 shall, when feasible, provide an opportunity for that individual to
36 provide oral comment at the meeting remotely if oral comment from
37 other members of the public will be accepted at the meeting.

38 (3) Nothing in this section prevents a governing body from
39 allowing public comment on items not on the meeting agenda.

1 (4) Nothing in this section diminishes the authority of governing
2 bodies to deal with interruptions under RCW 42.30.050, limits the
3 ability of the governing body to put limitations on the time
4 available for public comment or on how public comment is accepted, or
5 requires a governing body to accept public comment that renders
6 orderly conduct of the meeting unfeasible.

7 **Sec. 7.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each amended
8 to read as follows:

9 This chapter may be known and cited as the (~~"Open Public~~
10 ~~Meetings Act of 1971".~~) Washington state open public meetings act or
11 OPMA.

12 NEW SECTION. **Sec. 8.** This act may be known and cited as the
13 Heather "Newsbrooke" Brooke, Ph.D. act.

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