

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 3888

By: Caldwell (Chad) of the
House

4 and

5 Howard of the Senate

6
7
8 [definitions and general provisions - proof of
9 publication by a newspaper - affidavits shall
10 constitute incontestable proof of publication -
11 effective date]

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13
14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to open meetings; amending 25
17 O.S. 2011, Section 304, as amended by Section 3,
18 Chapter 81, O.S.L. 2019 (25 O.S. Supp. 2019,
19 Section 304), which relates to definitions;
20 modifying certain definitions; amending 25 O.S.
21 2011, Section 306, which relates to
22 teleconferences; allowing certain
23 videoconferences; amending 25 O.S. 2011, Section
24 307.1, as amended by Section 1, Chapter 119,
O.S.L. 2019 (25 O.S. Supp. 2019, Section 307.1),
which relates to videoconferences; providing
certain provisions; allowing certain
teleconferences and videoconferences; requiring
certain notice; requiring certain attendance;
requiring certain participation; requiring
certain distribution of materials; requiring
certain votes; allowing certain executive

1 sessions; amending 25 O.S. 2011, Section 311, as
2 last amended by Section 1, Chapter 376, O.S.L.
3 2019 (25 O.S. Supp. 2019, Section 311), which
4 relates to notices for public bodies; making
5 exception for certain notice of a public meeting;
6 and declaring an emergency.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

8 SECTION 1. AMENDATORY 25 O.S. 2011, Section 304, as
9 amended by Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp. 2019,
10 Section 304), is amended to read as follows:

11 Section 304. As used in the Oklahoma Open Meeting Act:

12 1. "Public body" means the governing bodies of all
13 municipalities located within this state, boards of county
14 commissioners of the counties in this state, boards of public and
15 higher education in this state and all boards, bureaus, commissions,
16 agencies, trusteeships, authorities, councils, committees, public
17 trusts or any entity created by a public trust, including any
18 committee or subcommittee composed of any of the members of a public
19 trust or other legal entity receiving funds from the Rural Economic
20 Action Plan Fund as authorized by Section 2007 of Title 62 of the
21 Oklahoma Statutes, task forces or study groups in this state
22 supported in whole or in part by public funds or entrusted with the
23 expending of public funds, or administering public property, and
24 shall include all committees or subcommittees of any public body.
Public body shall not include the state judiciary, the Council on

1 Judicial Complaints when conducting, discussing, or deliberating any
2 matter relating to a complaint received or filed with the Council,
3 the Legislature, or administrative staffs of public bodies,
4 including, but not limited to, faculty meetings and athletic staff
5 meetings of institutions of higher education when those staffs are
6 not meeting with the public body, or entry-year assistance
7 committees. Furthermore, public body shall not include the
8 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
9 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
10 Title 63 of the Oklahoma Statutes or any school board meeting for
11 the sole purpose of considering recommendations of a
12 multidisciplinary team and deciding the placement of any child who
13 is the subject of the recommendations. Furthermore, public body
14 shall not include meetings conducted by stewards designated by the
15 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
16 3A of the Oklahoma Statutes when the stewards are officiating at
17 races or otherwise enforcing rules of the Commission;

18 2. "Meeting" means the conduct of business of a public body by
19 a majority of its members being personally together or, as
20 authorized by Section 307.1 of this title, together pursuant to a
21 videoconference. Meeting shall not include informal gatherings of a
22 majority of the members of the public body when no business of the
23 public body is discussed;

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1 3. "Regularly scheduled meeting" means a meeting at which the
2 regular business of the public body is conducted;

3 4. "Special meeting" means any meeting of a public body other
4 than a regularly scheduled meeting or emergency meeting;

5 5. "Emergency meeting" means any meeting called for the purpose
6 of dealing with an emergency. For purposes of the Oklahoma Open
7 Meeting Act, an emergency is defined as a situation involving injury
8 to persons or injury and damage to public or personal property or
9 immediate financial loss when the time requirements for public
10 notice of a special meeting would make such procedure impractical
11 and increase the likelihood of injury or damage or immediate
12 financial loss;

13 6. "Continued or reconvened meeting" means a meeting which is
14 assembled for the purpose of finishing business appearing on an
15 agenda of a previous meeting. For the purposes of the Oklahoma Open
16 Meeting Act, only matters on the agenda of the previous meeting at
17 which the announcement of the continuance is made may be discussed
18 at a continued or reconvened meeting; ~~and~~

19 7. "Videoconference" means a conference among members of a
20 public body remote from one another who are linked by interactive
21 telecommunication devices or technology permitting both visual and
22 auditory communication between and among members of the public body
23 or between and among members of the public body and members of the
24 public. During any videoconference, both the visual and auditory

1 communications functions ~~of the device~~ shall attempt to be utilized.
2 ~~Whenever the term "teleconference" appears in any law in relation to~~
3 ~~a meeting of a public body, it shall be deemed to mean a~~
4 ~~videoconference as defined in this paragraph; and~~

5 8. "Teleconference" means a conference among members of a
6 public body remote from one another who are linked by a
7 telecommunications device or technology permitting auditory
8 communication between and among members of the public body or
9 between and among members of the public body and members of the
10 public.

11 SECTION 2. AMENDATORY 25 O.S. 2011, Section 306, is
12 amended to read as follows:

13 Section 306. No informal gatherings or any electronic or
14 telephonic communications, except teleconferences or
15 videoconferences as authorized by Section ~~3~~ 307.1 of this ~~act~~ title,
16 among a majority of the members of a public body shall be used to
17 decide any action or to take any vote on any matter.

18 SECTION 3. AMENDATORY 25 O.S. 2011, Section 307.1, as
19 amended by Section 1, Chapter 119, O.S.L. 2019 (25 O.S. Supp. 2019,
20 Section 307.1), is amended to read as follows:

21 Section 307.1. A. ~~A~~ Except as provided in subsections C and D
22 of this section, a public body may hold meetings by videoconference
23 where each member of the public body is visible and audible to each
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1 other and the public through a video monitor, subject to the
2 following:

3 1. a. except as provided for in subparagraph b of this
4 paragraph, no less than a quorum of the public body
5 shall be present in person at the meeting site as
6 posted on the meeting notice and agenda,

7 b. a virtual charter school approved and sponsored by the
8 Statewide Virtual Charter School Board pursuant to the
9 provisions of Section 3-145.3 of Title 70 of the
10 Oklahoma Statutes shall maintain a quorum of members
11 for the entire duration of the meeting whether using
12 an in-person site, videoconference sites or any
13 combination of such sites to achieve a quorum;

14 2. The meeting notice and agenda prepared in advance of the
15 meeting, as required by law, shall indicate if the meeting will
16 include videoconferencing locations and shall state:

17 a. the location, address, and telephone number of each
18 available videoconference site, and

19 b. the identity of each member of the public body and the
20 specific site from which each member of the body shall
21 be physically present and participating in the
22 meeting;

23 3. After the meeting notice and agenda are prepared and posted,
24 as required by law, no member of the public body shall be allowed to

1 participate in the meeting from any location other than the specific
2 location posted on the agenda in advance of the meeting;

3 4. In order to allow the public the maximum opportunity to
4 attend and observe each public official carrying out the duties of
5 the public official, a member or members of a public body desiring
6 to participate in a meeting by videoconference shall participate in
7 the videoconference from a site and room located within the district
8 or political subdivision from which they are elected, appointed, or
9 are sworn to represent;

10 5. Each site and room where a member of the public body is
11 present for a meeting by videoconference shall be open and
12 accessible to the public, and the public shall be allowed into that
13 site and room. Public bodies may provide additional videoconference
14 sites as a convenience to the public, but additional sites shall not
15 be used to exclude or discourage public attendance at any
16 videoconference site;

17 6. The public shall be allowed to participate and speak, as
18 allowed by rule or policy set by the public body, in a meeting at
19 the videoconference site in the same manner and to the same extent
20 as the public is allowed to participate or speak at the site of the
21 meeting;

22 7. Any materials shared electronically between members of the
23 public body, before or during the videoconference, shall also be
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1 immediately available to the public in the same form and manner as
2 shared with members of the public body; and

3 8. All votes occurring during any meeting conducted using
4 videoconferencing shall occur and be recorded by roll call vote.

5 B. No public body shall conduct an executive session by
6 videoconference.

7 C. Upon the effective date of this act and until March 1, 2021,
8 the provisions of this subsection and subsection D shall operate as
9 law in this state.

10 1. A public body may hold meetings by teleconference or
11 videoconference where each member of the public body is audible or
12 visible to each other and the public, subject to the following:

13 a. a virtual charter school approved and sponsored by the
14 Statewide Virtual Charter School Board pursuant to the
15 provisions of the Oklahoma Statutes, the public body
16 shall maintain a quorum of members for the entire
17 duration of the meeting whether using an in-person
18 site, teleconference or videoconference or any
19 combination of such sites to achieve a quorum, and

20 b. if the meeting is held using either teleconference or
21 videoconference capabilities, and at any time the
22 audio connection is disconnected, the meeting shall be
23 stopped and reconvened once the audio connection is
24 restored;

1 2. The meeting notice and agenda prepared in advance of the
2 meeting, as required by law, shall indicate if the meeting will
3 include teleconferencing or videoconferencing and shall also state:

4 a. each public body member appearing remotely and the
5 method of each member's remote appearance, and

6 b. the identity of the public body member or members who
7 will be physically present at the meeting site, if
8 any;

9 3. After the meeting notice and agenda are prepared and posted
10 as required by law, public body members shall not be permitted to
11 alter their method of attendance; provided, however, those members
12 who were identified as appearing remotely may be permitted to
13 physically appear at the meeting site, if any, for the meeting;

14 4. The public shall be allowed to participate and speak, as
15 allowed by rule or policy set by the public body, in a meeting which
16 utilizes teleconference or videoconference in the same manner and to
17 the same extent as the public is allowed to participate or speak
18 during a meeting where all public body members are physically
19 present together at the meeting site;

20 5. Any materials shared electronically between members of the
21 public body during a meeting utilizing teleconferencing or
22 videoconferencing shall also be immediately available to the public
23 in the same form as shared with the members of the public body; and
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1 6. All votes occurring during any meeting utilizing
2 teleconference or videoconference shall occur and be recorded by
3 roll call votes.

4 D. Public bodies are permitted to conduct an executive session
5 by teleconference or videoconference. For such executive sessions,
6 no public body member is required to be physically present so long
7 as each public body member is audible or visible to each other. The
8 meeting notice and agenda prepared in advance of the meeting as
9 required by law, shall indicate if the executive session will
10 include teleconferencing or videoconferencing and shall also state
11 the identity of each public body member appearing remotely, the
12 method of each member's remote appearance and whether any member
13 will be physically present at the meeting site, if any, for the
14 executive session.

15 SECTION 4. AMENDATORY 25 O.S. 2011, Section 311, as last
16 amended by Section 1, Chapter 376, O.S.L. 2019 (25 O.S. Supp. 2019,
17 Section 311), is amended to read as follows:

18 Section 311. A. Notwithstanding any other provisions of law,
19 all regularly scheduled, continued or reconvened, special or
20 emergency meetings of public bodies shall be preceded by public
21 notice as follows:

22 1. All public bodies shall give notice in writing by December
23 15 of each calendar year of the schedule showing the date, time and
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1 place of the regularly scheduled meetings of such public bodies for
2 the following calendar year;

3 2. All state public bodies, including, but not limited to,
4 public trusts and other bodies with the state as beneficiary, shall
5 give such notice to the Secretary of State;

6 3. All county public bodies including, but not limited to,
7 public trusts and any other bodies with the county as beneficiary,
8 shall give such notice to the county clerk of the county wherein
9 they are principally located;

10 4. All municipal public bodies, including, but not limited to,
11 public trusts and any other bodies with the municipality as
12 beneficiary, shall give such notice to the municipal clerk of the
13 municipality wherein they are principally located;

14 5. All multicounty, regional, areawide or district public
15 bodies including, but not limited to, district boards of education,
16 shall give such notice to the county clerk of the county wherein
17 they are principally located, or if no office exists, to the county
18 clerk of the county or counties served by such public body;

19 6. All governing boards of state institutions of higher
20 education, and committees and subcommittees thereof, shall give such
21 notice to the Secretary of State. All other public bodies covered
22 by the provisions of the Oklahoma Open Meeting Act which exist under
23 the auspices of a state institution of higher education, but a
24 majority of whose members are not members of the institution's

1 governing board, shall give such notice to the county clerk of the
2 county wherein the institution is principally located;

3 7. The Secretary of State and each county clerk or municipal
4 clerk shall keep a record of all notices received in a register open
5 to the public for inspection during regular office hours, and, in
6 addition, shall make known upon any request of any person the
7 contents of the register;

8 8. If any change is to be made of the date, time or place of
9 regularly scheduled meetings of public bodies, then notice in
10 writing shall be given to the Secretary of State or county clerk or
11 municipal clerk, as required herein, not less than ten (10) days
12 prior to the implementation of any such change;

13 9. In addition to the advance public notice in writing required
14 to be filed for regularly scheduled meetings, described in paragraph
15 1 of this subsection, all public bodies shall, at least twenty-four
16 (24) hours prior to such regularly scheduled meetings, display
17 public notice of the meeting by at least one of the following
18 methods:

- 19 a. by posting information that includes date, time, place
20 and agenda for the meeting in prominent public view at
21 the principal office of the public body or at the
22 location of the meeting if no office exists, ~~or~~
23 b. by posting on the public body's Internet website the
24 date, time, place and agenda for the meeting in

1 accordance with Section 3106.2 of Title 74 of the
2 Oklahoma Statutes. Additionally, the public body
3 shall offer and consistently maintain an email
4 distribution system for distribution of such notice of
5 a public meeting required by this subsection, and any
6 person may request to be included without charge, and
7 their request shall be accepted. The emailed notice
8 of a public meeting required by this subsection shall
9 include in the body of the email or as an attachment
10 to the email the date, time, place and agenda for the
11 meeting and it shall be sent no less than twenty-four
12 (24) hours prior to the meeting. Additionally, except
13 as provided in subparagraph c of this paragraph, the
14 public body shall make the notice of a public meeting
15 required by this subsection available to the public in
16 the principal office of the public body or at the
17 location of the meeting during normal business hours
18 at least twenty-four (24) hours prior to the meeting,
19 or

20 c. upon the effective date of this act and until March 1,
21 2021, the public body shall not be required to make
22 the notice of a public meeting available to the public
23 in the principal office of the public body or at the
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1 location of the meeting during normal business hours
2 at least twenty-four (24) hours prior to the meeting;

3 10. The twenty-four (24) hours required in paragraph 9 of this
4 subsection shall exclude Saturdays, Sundays and holidays legally
5 declared by the State of Oklahoma. The posting or distribution of a
6 notice of a public meeting as described in paragraph 9 of this
7 subsection shall not preclude a public body from considering at its
8 regularly scheduled meeting any new business. "New business", as
9 used herein, shall mean any matter not known about or which could
10 not have been reasonably foreseen prior to the time of the posting;

11 11. In the event any meeting is to be continued or reconvened,
12 public notice of such action including date, time and place of the
13 continued meeting, shall be given by announcement at the original
14 meeting. Only matters appearing on the agenda of the meeting which
15 is continued may be discussed at the continued or reconvened
16 meeting;

17 12. Special meetings of public bodies shall not be held without
18 public notice being given at least forty-eight (48) hours prior to
19 the meetings. Such public notice of date, time and place shall be
20 given in writing, in person or by telephonic means to the Secretary
21 of State or to the county clerk or to the municipal clerk by public
22 bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of
23 this subsection. The public body also shall cause written notice of
24 the date, time and place of the meeting to be mailed or delivered to

1 each person, newspaper, wire service, radio station and television
2 station that has filed a written request for notice of meetings of
3 the public body with the clerk or secretary of the public body or
4 with some other person designated by the public body. Such written
5 notice shall be mailed or delivered at least forty-eight (48) hours
6 prior to the special meeting. The public body may charge a fee of
7 up to Eighteen Dollars (\$18.00) per year to persons or entities
8 filing a written request for notice of meetings, and may require
9 such persons or entities to renew the request for notice annually.
10 In addition, all public bodies shall, at least twenty-four (24)
11 hours prior to such special meetings, display public notice of the
12 meeting, setting forth thereon the date, time, place and agenda for
13 the meeting. Only matters appearing on the posted agenda may be
14 considered at the special meeting. Such public notice shall be
15 posted in prominent public view at the principal office of the
16 public body or at the location of the meeting if no office exists.
17 Twenty-four (24) hours prior public posting shall exclude Saturdays,
18 Sundays and holidays legally declared by the State of Oklahoma. In
19 lieu of the public posting requirements of this paragraph, a public
20 body may elect to follow the requirements found in subparagraph b of
21 paragraph 9 of this subsection, provided that forty-eight-hour
22 notice is required for special meetings and that the forty-eight-
23 hour requirement shall exclude Saturdays, Sundays and holidays
24 legally declared by the State of Oklahoma; and

1 13. In the event of an emergency, an emergency meeting of a
2 public body may be held without the public notice heretofore
3 required. Should an emergency meeting of a public body be
4 necessary, the person calling such a meeting shall give as much
5 advance public notice as is reasonable and possible under the
6 circumstances existing, in person or by telephonic or electronic
7 means.

8 B. 1. All agendas required pursuant to the provisions of this
9 section shall identify all items of business to be transacted by a
10 public body at a meeting including, but not limited to, any proposed
11 executive session for the purpose of engaging in deliberations or
12 rendering a final or intermediate decision in an individual
13 proceeding prescribed by the Administrative Procedures Act.

14 2. If a public body proposes to conduct an executive session,
15 the agenda shall:

- 16 a. contain sufficient information for the public to
- 17 ascertain that an executive session will be proposed,
- 18 b. identify the items of business and purposes of the
- 19 executive session, and
- 20 c. state specifically the provision of Section 307 of
- 21 this title authorizing the executive session.

22 SECTION 5. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby

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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval."

3 Passed the Senate the 17th day of March, 2020.

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Presiding Officer of the Senate

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7 Passed the House of Representatives the ____ day of _____,
8 2020.

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Presiding Officer of the House
of Representatives

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1 ENGROSSED HOUSE
2 BILL NO. 3888

By: Caldwell (Chad) of the
House

3 and

4 Howard of the Senate
5
6

7 [definitions and general provisions - proof of
8 publication by a newspaper - affidavits shall
9 constitute incontestable proof of publication -
10 effective date]
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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 6. AMENDATORY 25 O.S. 2011, Section 108, is
16 amended to read as follows:

17 Section 108. A. Any publisher or any authorized employee of
18 any newspaper making proof of publication by affidavit of any legal
19 notice, advertisement, or publication of any kind, required or
20 provided by any of the laws of the State of Oklahoma shall
21 specifically set forth in said affidavit that said newspaper
22 carrying said notice, advertisement or publication, comes within the
23 prescription and requirement of Section ~~4~~ 106 of this ~~act~~ title.
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