

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3415

By: Pae of the House

and

7 **Howard** of the Senate

8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Open Meeting Act;
12 amending 25 O.S. 2021, Sections 304 and 307.1, which
13 relate to authorized methods for conducting meetings;
14 modifying definitions; modifying provisions related
15 to videoconferences; prescribing procedures related
16 to the conduct of meetings by electronic methods;
17 providing certain exceptions; prohibiting certain
18 electronic communications during public meetings;
19 providing for suspension of ability to achieve quorum
20 by electronic means under certain conditions;
21 imposing time limit; providing for ratification by
22 public body; and providing an effective date.

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

24 SECTION 1. AMENDATORY 25 O.S. 2021, Section 304, is
amended to read as follows:

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

1. "Public body" means the governing bodies of all
municipalities located within this state, boards of county

1 commissioners of the counties in this state, boards of public and
2 higher education in this state and all boards, bureaus, commissions,
3 agencies, trusteeships, authorities, councils, committees, public
4 trusts or any entity created by a public trust, including any
5 committee or subcommittee composed of any of the members of a public
6 trust or other legal entity receiving funds from the Rural Economic
7 Action Plan Fund as authorized by Section 2007 of Title 62 of the
8 Oklahoma Statutes, task forces or study groups in this state
9 supported in whole or in part by public funds or entrusted with the
10 expending of public funds, or administering public property, and
11 shall include all committees or subcommittees of any public body.
12 Public body shall not include the state judiciary, the Council on
13 Judicial Complaints when conducting, discussing, or deliberating any
14 matter relating to a complaint received or filed with the Council,
15 the Legislature, or administrative staffs of public bodies,
16 including, but not limited to, faculty meetings and athletic staff
17 meetings of institutions of higher education when those staffs are
18 not meeting with the public body, or entry-year assistance
19 committees. Furthermore, public body shall not include the
20 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
21 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
22 Title 63 of the Oklahoma Statutes or any school board meeting for
23 the sole purpose of considering recommendations of a
24 multidisciplinary team and deciding the placement of any child who

1 is the subject of the recommendations. Furthermore, public body
2 shall not include meetings conducted by stewards designated by the
3 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
4 3A of the Oklahoma Statutes when the stewards are officiating at
5 races or otherwise enforcing rules of the Commission. Furthermore,
6 public body shall not include the board of directors of a Federally
7 Qualified Health Center;

8 2. "Meeting" means the conduct of business of a public body by
9 a majority of its members being personally together or, as
10 authorized by Section 307.1 of this title, together pursuant to a
11 videoconference. Meeting shall not include informal gatherings of a
12 majority of the members of the public body when no business of the
13 public body is discussed;

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

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

18 5. "Emergency meeting" means any meeting called for the purpose
19 of dealing with an emergency. For purposes of the Oklahoma Open
20 Meeting Act, an emergency is defined as a situation involving injury
21 to persons or injury and damage to public or personal property or
22 immediate financial loss when the time requirements for public
23 notice of a special meeting would make such procedure impractical
24

1 and increase the likelihood of injury or damage or immediate
2 financial loss or a public health emergency;

3 6. "Continued or reconvened meeting" means a meeting which is
4 assembled for the purpose of finishing business appearing on an
5 agenda of a previous meeting. For the purposes of the Oklahoma Open
6 Meeting Act, only matters on the agenda of the previous meeting at
7 which the announcement of the continuance is made may be discussed
8 at a continued or reconvened meeting;

9 7. "Videoconference" means ~~a conference among members of a~~
10 ~~public body remote from one another who are linked by interactive~~
11 ~~telecommunication devices or technology and/or technology permitting~~
12 ~~both visual and auditory communication between and among members of~~
13 ~~the public body and/or between and among members of the public body~~
14 ~~and members of the public. During any videoconference, both the~~
15 ~~visual and auditory communications functions shall attempt to be~~
16 ~~utilized~~ interaction at a public meeting utilizing the provisions of
17 Section 307.1 of this title; and

18 8. "Teleconference" means ~~a conference among members of a~~
19 ~~public body remote from one another who are linked by~~
20 ~~telecommunication devices and/or technology permitting auditory~~
21 ~~communication between and among members of the public body and/or~~
22 ~~between and among members of the public body and members of the~~
23 ~~public~~ interaction at a public meeting utilizing the provisions of
24 Section 307.1 of this title.

1 SECTION 2. AMENDATORY 25 O.S. 2021, Section 307.1, is
2 amended to read as follows:

3 Section 307.1 ~~A. Except as provided in subsections C and D of~~
4 ~~this section, a~~ A public body may hold meetings and executive
5 sessions by videoconference electronic means where each member of
6 the public body ~~is visible and audible to each other and the public~~
7 ~~through a video monitor~~ may participate in the meetings
8 electronically, subject to the following:

- 9 1. a. ~~except as provided for in subparagraph b of this~~
10 ~~paragraph, no less than a quorum of the public body~~
11 ~~shall be present in person at the meeting site as~~
12 ~~posted on the meeting notice and agenda~~ Members of
13 public bodies subject to the Oklahoma Open Meeting Act
14 shall not participate in more than one-quarter (1/4)
15 of the regular and special meetings of the public body
16 upon which they serve utilizing this exception in any
17 floating twelve-month period. Attendance in excess of
18 this prohibition shall be recorded as an absence.
19 This provision shall not apply to those serving on a
20 virtual charter school approved and sponsored by the
21 Statewide Virtual Charter School Board pursuant to the
22 provisions of Section 3-145.3 of Title 70 of the
23 Oklahoma Statutes,

- b. ~~a virtual charter school approved and sponsored by the~~
~~Statewide Virtual Charter School Board pursuant to the~~
~~provisions of Section 3-145.3 of Title 70 of the~~
~~Oklahoma Statutes~~ Public bodies shall maintain a
quorum of members for the entire duration of the
meeting ~~whether using an in-person site,~~
~~videoconference sites or any combination of such sites~~
~~to achieve a quorum;~~ Members participating remotely
may do so from any fixed location, and the meeting
shall be open to the public in person in a public
place unless emergency provisions are triggered as
outlined in the Oklahoma Open Meeting Act. With the
exception of those communications made pursuant to a
lawfully convened executive session, no private
electronic communications concerning public business
may occur during a public meeting by members of the
governing body, and
- c. ~~each~~ Each public meeting held ~~by videoconference or~~
~~teleconference~~ in compliance with this section shall
~~be recorded either by written, electronic, or other~~
~~means~~ have minutes prepared in compliance with state
and local law;

2. The meeting notice and agenda prepared in advance of the
meeting, as required by law, shall indicate if the meeting ~~will~~ may

1 include ~~videoconferencing locations~~ electronic or in-person
2 participation and shall state:

3 a. the ~~location, address, and telephone number of each~~
4 ~~available videoconference site, and~~

5 b. the ~~identity of each member of the public body and the~~
6 ~~specific site from which each member of the body shall~~
7 ~~be physically present and participating in the meeting~~
8 and/or electronic source that may be utilized to
9 access the meeting;

10 3. ~~After the meeting notice and agenda are prepared and posted,~~
11 ~~as required by law, no member of the public body shall be allowed to~~
12 ~~participate in the meeting from any location other than the specific~~
13 ~~location posted on the agenda in advance of the meeting;~~

14 4. ~~In order to allow the public the maximum opportunity to~~
15 ~~attend and observe each public official carrying out the duties of~~
16 ~~the public official, a member or members of a public body desiring~~
17 ~~to participate in a meeting by videoconference shall participate in~~
18 ~~the videoconference from a site and room located within the district~~
19 ~~or political subdivision from which they are elected, appointed, or~~
20 ~~are sworn to represent;~~

21 5. ~~Each site and room where a member of the public body is~~
22 ~~present for a meeting by videoconference shall be open and~~
23 ~~accessible to the public, and the public shall be allowed into that~~
24 ~~site and room. Public bodies may provide additional videoconference~~

1 ~~sites as a convenience to the public, but additional sites shall not~~
2 ~~be used to exclude or discourage public attendance at any~~
3 ~~videoconference site;~~

4 ~~6.~~ 3. The public shall be allowed to participate and speak, as
5 ~~allowed by~~ at meetings held electronically to the extent such
6 participation is consistent with a previously adopted rule or policy
7 ~~set by the public body, in a meeting at the videoconference site in~~
8 ~~the same manner and to the same extent as the public is allowed to~~
9 ~~participate or speak at the site of the meeting;~~

10 ~~7.~~ 4. Any materials shared electronically between members of
11 the public body, before or during ~~the videoconference~~ a public
12 meeting, shall also be ~~immediately made~~ immediately made available to the public ~~in~~
13 ~~the same form and manner as shared with members of the public body;~~
14 ~~and~~

15 ~~8.~~ 5. All votes occurring during any meeting conducted using
16 ~~videoconferencing~~ electronic means shall occur and be recorded by
17 roll call vote;

18 6. The requirement of an in-person meeting location for the
19 purposes of conducting a public meeting as outlined in this section
20 shall be suspended statewide during a state of emergency declared by
21 the Governor to respond to the threat of the public's peace, health
22 and safety, or during a locally declared state of emergency declared
23 by a mayor, school board president, or chairman of a board of county
24 commissioners whereby such locally declared state of emergency shall

1 not continue for more than thirty (30) days without ratification of
2 the respective public body; and

3 7. Public bodies are permitted to conduct an executive session
4 by teleconference or videoconference to the extent a quorum is
5 present in compliance with the provisions of this act.

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

8 ~~C. Upon the effective date of this act and until February 15,~~
9 ~~2022, or until thirty (30) days after the expiration or termination~~
10 ~~of the state of emergency declared by the Governor to respond to the~~
11 ~~threat of COVID-19 to the people of this state and the public's~~
12 ~~peace, health and safety, whichever date first occurs, the~~
13 ~~provisions of this subsection and subsection D shall operate as law~~
14 ~~in this state.~~

15 ~~1. A public body may hold meetings by teleconference or~~
16 ~~videoconference if each member of the public body is audible or~~
17 ~~visible to each other and the public, subject to the following:~~

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

1 ~~b. if the meeting is held using either teleconference or~~
2 ~~videoconference capabilities, and at any time the~~
3 ~~audio connection is disconnected, the meeting shall be~~
4 ~~stopped and reconvened once the audio connection is~~
5 ~~restored;~~

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

9 ~~a. each public body member appearing remotely and the~~
10 ~~method of each member's remote appearance, and~~

11 ~~b. the identity of the public body member or members who~~
12 ~~will be physically present at the meeting site, if~~
13 ~~any;~~

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

19 ~~4. The public body shall be allowed to participate and speak,~~
20 ~~as allowed by rule or policy set by the public body, in a meeting~~
21 ~~which utilizes teleconference or videoconference in the same manner~~
22 ~~and to the same extent as the public is allowed to participate or~~
23 ~~speak during a meeting where all public body members are physically~~
24 ~~present together at the meeting site;~~

1 ~~5. Any documents or other materials provided to members of the~~
2 ~~public body or shared electronically between members of the public~~
3 ~~body during a meeting utilizing teleconferencing or~~
4 ~~videoconferencing shall also be immediately available to the public~~
5 ~~on the website of the public body, if the public body maintains a~~
6 ~~website; and~~

7 ~~6. All votes occurring during any meeting utilizing~~
8 ~~teleconference or videoconference shall occur and be recorded by~~
9 ~~roll call votes.~~

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

21 SECTION 3. This act shall become effective November 1, 2022.

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23 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND
24 EFFICIENCY, dated 02/17/2022 - DO PASS, As Amended and Coauthored.