

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3415

By: Pae

AS INTRODUCED

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

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

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 commissioners of the counties in this state, boards of public and higher education in this state and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts or any entity created by a public trust, including any

1 committee or subcommittee composed of any of the members of a public
2 trust or other legal entity receiving funds from the Rural Economic
3 Action Plan Fund as authorized by Section 2007 of Title 62 of the
4 Oklahoma Statutes, task forces or study groups in this state
5 supported in whole or in part by public funds or entrusted with the
6 expending of public funds, or administering public property, and
7 shall include all committees or subcommittees of any public body.
8 Public body shall not include the state judiciary, the Council on
9 Judicial Complaints when conducting, discussing, or deliberating any
10 matter relating to a complaint received or filed with the Council,
11 the Legislature, or administrative staffs of public bodies,
12 including, but not limited to, faculty meetings and athletic staff
13 meetings of institutions of higher education when those staffs are
14 not meeting with the public body, or entry-year assistance
15 committees. Furthermore, public body shall not include the
16 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
17 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
18 Title 63 of the Oklahoma Statutes or any school board meeting for
19 the sole purpose of considering recommendations of a
20 multidisciplinary team and deciding the placement of any child who
21 is the subject of the recommendations. Furthermore, public body
22 shall not include meetings conducted by stewards designated by the
23 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
24 3A of the Oklahoma Statutes when the stewards are officiating at

1 races or otherwise enforcing rules of the Commission. Furthermore,
2 public body shall not include the board of directors of a Federally
3 Qualified Health Center;

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

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

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

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

22 6. "Continued or reconvened meeting" means a meeting which is
23 assembled for the purpose of finishing business appearing on an
24 agenda of a previous meeting. For the purposes of the Oklahoma Open

1 Meeting Act, only matters on the agenda of the previous meeting at
2 which the announcement of the continuance is made may be discussed
3 at a continued or reconvened meeting;

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

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

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

22 Section 307.1 A. ~~Except as provided in subsections C and D of~~
23 ~~this section, a~~ A public body may hold meetings and executive
24 sessions by ~~videoconference~~ electronic means where each member of

1 the public body ~~is visible and audible to each other and the public~~
2 ~~through a video monitor~~ may participate in the meetings
3 electronically, subject to the following:

4 1. a. ~~except as provided for in subparagraph b of this~~
5 ~~paragraph, no less than a quorum of the public body~~
6 ~~shall be present in person at the meeting site as~~
7 ~~posted on the meeting notice and agenda~~ Members of
8 public bodies subject to the Open Meeting Act shall
9 not participate in more than half of the regular and
10 special meetings of the public body upon which they
11 serve utilizing this exception in any calendar year.

12 Attendance in excess of this prohibition shall be
13 recorded as an absence. This provision shall not
14 apply to those serving on a virtual charter school
15 approved and sponsored by the Statewide Virtual
16 Charter School Board pursuant to the provisions of
17 Section 3-145.3 of Title 70 of the Oklahoma Statutes,

18 b. ~~a virtual charter school approved and sponsored by the~~
19 ~~Statewide Virtual Charter School Board pursuant to the~~
20 ~~provisions of Section 3-145.3 of Title 70 of the~~
21 ~~Oklahoma Statutes~~ Public bodies shall maintain a
22 quorum of members for the entire duration of the
23 meeting whether using an in-person site,
24 ~~videoconference sites~~ electronic participation or any

1 combination ~~of such sites~~ thereof to achieve a
2 quorum~~+~~, and the meeting shall be open to the public
3 in person in a public place unless emergency
4 provisions are triggered as outlined in the Open
5 Meeting Act. No private electronic communications
6 concerning public business may occur during a public
7 meeting by members of the governing body, and

- 8 c. ~~each~~ Each public meeting held ~~by videoconference or~~
9 ~~teleconference~~ in compliance with this section shall
10 ~~be recorded either by written, electronic, or other~~
11 ~~means~~ have minutes prepared in compliance with state
12 and local law;

13 2. The meeting notice and agenda prepared in advance of the
14 meeting, as required by law, shall indicate if the meeting ~~will~~ may
15 include ~~videoconferencing locations~~ electronic or in-person
16 participation and shall state~~+~~

- 17 a. ~~the location, address, and telephone number of each~~
18 ~~available videoconference site~~ and/or electronic
19 source that may be utilized to access the meeting, and
20 b. ~~the identity of each member of the public body and the~~
21 ~~specific site from which each member of the body shall~~
22 ~~be physically present and participating in the~~
23 ~~meeting;~~

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

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

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

19 ~~6.~~ 3. The public shall be allowed to participate and speak, as
20 ~~allowed by~~ at meetings held electronically to the extent such
21 participation is consistent with a previously adopted rule or policy
22 ~~set by the public body, in a meeting at the videoconference site in~~
23 ~~the same manner and to the same extent as the public is allowed to~~
24 ~~participate or speak at the site of the meeting;~~

1 ~~7.~~ 4. Any materials shared electronically between members of
2 the public body, before or during the videoconference, shall also be
3 ~~immediately made~~ available to the public ~~in the same form and manner~~
4 ~~as shared with members of the public body; and~~

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

8 6. The prohibition of establishing a quorum utilizing
9 electronic means exclusively for the purposes of conducting a public
10 meeting as outlined in this section shall be suspended statewide
11 during a state of emergency declared by the Governor to respond to
12 the threat of the public's peace, health and safety, or during a
13 locally declared state of emergency declared by a mayor, school
14 board president, or chairman of a board of county commissioners
15 whereby such locally declared state of emergency shall not continue
16 for more than thirty (30) days without ratification of the
17 respective public body.

18 ~~B. No public body shall conduct an executive session by~~
19 ~~videoconference.~~

20 ~~C. Upon the effective date of this act and until February 15,~~
21 ~~2022, or until thirty (30) days after the expiration or termination~~
22 ~~of the state of emergency declared by the Governor to respond to the~~
23 ~~threat of COVID-19 to the people of this state and the public's~~
24 ~~peace, health and safety, whichever date first occurs, the~~

~~provisions of this subsection and subsection D shall operate as law in this state.~~

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

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

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

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

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

1 ~~b. the identity of the public body member or members who~~
2 ~~will be physically present at the meeting site, if~~
3 ~~any;~~

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

9 ~~4. The public body shall be allowed to participate and speak,~~
10 ~~as allowed by rule or policy set by the public body, in a meeting~~
11 ~~which utilizes teleconference or videoconference in the same manner~~
12 ~~and to the same extent as the public is allowed to participate or~~
13 ~~speak during a meeting where all public body members are physically~~
14 ~~present together at the meeting site;~~

15 ~~5. Any documents or other materials provided to members of the~~
16 ~~public body or shared electronically between members of the public~~
17 ~~body during a meeting utilizing teleconferencing or~~
18 ~~videoconferencing shall also be immediately available to the public~~
19 ~~on the website of the public body, if the public body maintains a~~
20 ~~website; and~~

21 ~~6. All votes occurring during any meeting utilizing~~
22 ~~teleconference or videoconference shall occur and be recorded by~~
23 ~~roll call votes.~~

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

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

13
14 58-2-8861 MAH 01/19/22
15
16
17
18
19
20
21
22
23
24