

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1273

By: Burns

AS INTRODUCED

An Act relating to public participation at public meetings; amending 25 O.S. 2021, Section 311, which relates to notice of meetings of public bodies; clarifying right of members of the public to exercise first amendment rights at public meetings; prohibiting law enforcement officers or entities from taking certain actions; amending 70 O.S. 2021, Section 5-118, which relates to meetings of school boards; clarifying right of members of the public to exercise first amendment rights at public meetings; prohibiting law enforcement officers or entities from taking certain actions; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2021, Section 311, is amended to read as follows:

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

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and

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
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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~~ March 18, 2020,
21 and until February 15, 2022, or until thirty (30) days
22 after the expiration or termination of the state of
23 emergency declared by the Governor to respond to the
24 threat of COVID-19 to the people of this state and the

1 public's peace, health and safety, whichever date
2 first occurs, the public body shall not be required to
3 make the notice of a public meeting available to the
4 public in the principal office of the public body or
5 at the location of the meeting during normal business
6 hours at least twenty-four (24) hours prior to the
7 meeting;

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

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

22 12. Special meetings of public bodies shall not be held without
23 public notice being given at least forty-eight (48) hours prior to
24 the meetings. Such public notice of date, time and place shall be
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1 given in writing, in person or by telephonic means to the Secretary
2 of State or to the county clerk or to the municipal clerk by public
3 bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of
4 this subsection. The public body also shall cause written notice of
5 the date, time and place of the meeting to be mailed or delivered to
6 each person, newspaper, wire service, radio station and television
7 station that has filed a written request for notice of meetings of
8 the public body with the clerk or secretary of the public body or
9 with some other person designated by the public body. Such written
10 notice shall be mailed or delivered at least forty-eight (48) hours
11 prior to the special meeting. The public body may charge a fee of
12 up to Eighteen Dollars (\$18.00) per year to persons or entities
13 filing a written request for notice of meetings, and may require
14 such persons or entities to renew the request for notice annually.
15 In addition, all public bodies shall, at least twenty-four (24)
16 hours prior to such special meetings, display public notice of the
17 meeting, setting forth thereon the date, time, place and agenda for
18 the meeting. Only matters appearing on the posted agenda may be
19 considered at the special meeting. Such public notice shall be
20 posted in prominent public view at the principal office of the
21 public body or at the location of the meeting if no office exists.
22 Twenty-four (24) hours prior public posting shall exclude Saturdays,
23 Sundays and holidays legally declared by the State of Oklahoma. In
24 lieu of the public posting requirements of this paragraph, a public

1 body may elect to follow the requirements found in subparagraph b of
2 paragraph 9 of this subsection, provided that forty-eight-hour
3 notice is required for special meetings and that the forty-eight-
4 hour requirement shall exclude Saturdays, Sundays and holidays
5 legally declared by the State of Oklahoma;

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

13 14. A public body that gives public notice of a meeting for
14 which there will be a videoconference option in accordance with
15 Section 307.1 of this title shall not modify the method of meeting
16 described in the notice prior to the meeting and shall conduct the
17 meeting according to the methods described in the notice. If a code
18 or password is required to access the videoconference meeting, the
19 code or password shall be included in the public notice.

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

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

- 5 a. contain sufficient information for the public to
- 6 ascertain that an executive session will be proposed,
- 7 b. identify the items of business and purposes of the
- 8 executive session, and
- 9 c. state specifically the provision of Section 307 of
- 10 this title authorizing the executive session.

11 3. Any interested member of the public may address a public
12 body on any agenda item or item of new business in the time
13 designated for public comment at a meeting of the public body. A
14 member of the public may exercise all rights of free speech and
15 assembly granted pursuant to the First Amendment of the Constitution
16 of the United States to address the public body. No law enforcement
17 officer or entity may prevent a member of the public from exercising
18 such rights in a lawful manner at a meeting of the public body, nor
19 may a law enforcement officer or entity use harassment,
20 intimidation, or threatened prosecution to prevent a member of the
21 public from exercising such rights.

22 SECTION 2. AMENDATORY 70 O.S. 2021, Section 5-118, is
23 amended to read as follows:
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1 Section 5-118. Regular meetings of the board of education of
2 each school district shall be held upon the first Monday of each
3 month, or upon such day as may be fixed by the board. Special
4 meetings may be held from time to time as circumstances may demand.

5 All meetings of the boards of education shall be public
6 meetings, and in all such meetings the vote of each member must be
7 publicly cast and recorded. Executive sessions will be permitted
8 only for the purpose of discussing the employment, hiring,
9 appointment, promotion, demotion, disciplining, or resignations of
10 any or all of the employees or volunteers of the school district,
11 and for the purpose of discussing negotiations concerning employees
12 and representatives of employee groups, and for the purpose of
13 hearing evidence and discussing the expulsion or suspension of a
14 student or students only when requested by the student involved or
15 his or her parent, attorney, or legal guardian; provided, however,
16 that any vote or action thereon must be taken in a public meeting
17 with the vote of each member publicly cast and recorded. It is
18 required that the board of education shall provide notice to the
19 student, his or her parent, attorney or legal guardian that said
20 student is entitled to an executive session regarding the discussion
21 of expulsion or suspension of said student.

22 Any interested member of the public may address a school board
23 on any agenda item or item of new business in the time designated
24 for public comment at a meeting of the school board. A member of

1 the public may exercise all rights of free speech and assembly
2 granted pursuant to the First Amendment of the Constitution of the
3 United States to address the school board. No law enforcement
4 officer or entity may prevent a member of the public from exercising
5 such rights in a lawful manner at a meeting of the school board, nor
6 may a law enforcement officer or entity use harassment,
7 intimidation, or threatened prosecution to prevent a member of the
8 public from exercising such rights.

9 Any action taken in violation of the provisions of ~~this act~~
10 Section 5-101 et seq. of this title shall be invalid.

11 Each member of the board of education of a school district with
12 an average daily attendance exceeding fifteen thousand (15,000) or a
13 school district where boundaries encompass a total population
14 exceeding one hundred thousand (100,000) persons according to the
15 last preceding Federal Decennial Census may be paid from the
16 district's general fund a stipend of Twenty-five Dollars (\$25.00)
17 for each regular, special or adjourned meeting of the board of
18 education that he or she attends, but not for more than four
19 meetings in any calendar month.

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

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