

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 761

By: Howard

AS INTRODUCED

An Act relating to public meetings; amending 25 O.S. 2021, Section 304, as amended by Section 1, Chapter 123, O.S.L. 2022 (25 O.S. Supp. 2022, Section 304), which relates to definitions used in the Oklahoma Open Meeting Act; defining term of public health emergency; establishing requirements under which a public body may conduct meetings and executive sessions utilizing digital means; requiring alternative means be used to make meetings available to the public under certain conditions; exempting governing bodies under certain conditions; clarifying no charge to the public; permitting participation by the public in meetings; prohibiting certain private electronic communications; providing for codification; 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, as amended by Section 1, Chapter 123, O.S.L. 2022 (25 O.S. Supp. 2022, 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

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

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

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

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

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

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

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

7 7. "Public health emergency" means a situation where the
8 circumstances lead state or local elected officials, as applicable
9 to this act, to determine a risk of death or significant harm to the
10 human population of the state or particular applicable political
11 subdivision. A locally declared state of emergency declared by a
12 mayor or chairman of a board of county commissioners shall not
13 continue for more than thirty (30) days with ratification of the
14 respective public body, unless such state of emergency is
15 concurrently declared by the Governor of the State of Oklahoma
16 covering the applicable political subdivision;

17 8. "Videoconference" means a conference among members of a
18 public body remote from one another who are linked by interactive
19 telecommunication devices or technology and/or technology permitting
20 both visual and auditory communication between and among members of
21 the public body and/or between and among members of the public body
22 and members of the public. During any videoconference, both the
23 visual and auditory communications functions shall attempt to be
24 utilized; and

1 ~~8.~~ 9. "Teleconference" means a conference among members of a
2 public body remote from one another who are linked by
3 telecommunication devices and/or technology permitting auditory
4 communication between and among members of the public body and/or
5 between and among members of the public body and members of the
6 public.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 307.2 of Title 25, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Public bodies, unless specifically exempted, may conduct
11 meetings and executive sessions utilizing digital means subject to
12 the following requirements:

13 1. No public official may be counted as present if
14 participating utilizing digital means for more than one-fourth (1/4)
15 of regular or special meetings in a rolling one (1) year period;

16 2. A quorum of members must be physically present in the
17 regular meeting location of the public body;

18 3. Any member of a governing body participating in a meeting
19 utilizing electronic means shall be confirmed by audio or visual
20 affirmation to the public to be the actual member of the governing
21 body and may only participate from a fixed location;

22 4. Documents provided digitally during a meeting utilizing
23 electronic means shall be made available in accordance with the
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1 lawfully adopted policy of the governing board and open records
2 requirements;

3 5. Any governing body making a good faith effort to comply with
4 the provisions of this section shall be immune from liability for
5 any attorney's fees connected with litigation for a failure to
6 comply with this section;

7 6. Minutes shall be prepared in compliance with state and local
8 law as applicable to public meetings; and

9 7. Notwithstanding the provisions of paragraph 1 of this
10 section, a governing body may hold a meeting utilizing digital means
11 without a quorum at the physical location during an emergency
12 meeting called for the purpose of dealing with the state of
13 emergency.

14 B. To the extent practicable, if a public body maintains a
15 website, has dedicated information technology employees, and has
16 immediate access to a high-speed internet connection, meetings held
17 without a physical meeting place open to the public shall be
18 streamed live on a website, made available by telephonic means, or
19 video of the meeting made available through an alternative website.
20 Video of such meetings shall be maintained by the public body and
21 available to the public for a period of at least seven (7) business
22 days after the meetings become official as required by Section 312
23 of Title 25 of the Oklahoma Statutes. Recordings created under this
24 subsection are subject to the retention requirements included herein

1 and are not subject to any other record or retention statute. The
2 provisions of the subsection shall not apply if there exists, or if
3 a governing body determines, the implementation of this subsection
4 creates a significant financial burden.

5 C. Meetings held without a physical meeting place open to the
6 public shall be streamed or otherwise made available to the public
7 at no charge by utilizing digital means, the public body's website,
8 the internet, or other free subscription digital services or
9 applications.

10 D. The public may be allowed to participate in meetings held
11 without a physical meeting place open to the public to the extent
12 such participation is consistent with previously adopted statutes,
13 rules, or policy.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 315 of Title 25, unless there is
16 created a duplication in numbering, reads as follows:

17 No private electronic communications concerning public business
18 may occur during a public meeting amongst members of the governing
19 body.

20 SECTION 4. This act shall become effective November 1, 2023.

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