

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 20, 2024

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1055

By: Kidd of the Senate and Pae and Swope of the House


Title: Oklahoma Open Meeting Act, definition of public health emergency, requirements for a public body to conduct meetings utilizing electronic means; quorum requirements; public availability. Effective date.

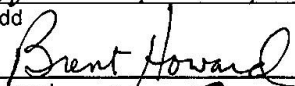
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3797) be adopted.

Respectfully submitted,

SENATE CONFEREES


Kidd


Howard


Galt

Daniels

Floyd

HOUSE CONFEREES

Conference Committee on General Government

Senate Action _____ Date _____ House Action _____ Date _____

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 1055

By: Kidd of the Senate

and

Pae and Swope of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Open Meeting Act; amending 25 O.S. 2021, Sections 304, as last amended by Section 3 of Enrolled House Bill No. 1382 of the 2nd Session of the 59th Oklahoma Legislature, and 307.1, as last amended by Section 1 of Enrolled House Bill No. 3780 of the 2nd Session of the 59th Oklahoma Legislature, which relate to definitions and videoconferences; modifying definitions; authorizing public bodies to conduct meetings utilizing electronic means under certain circumstances; modifying certain notice requirements; providing exceptions to requirements for quorum in a physical location under certain circumstances; establishing requirements for meetings of public bodies conducted utilizing electronic means; establishing requirements for sharing of certain documents or materials provided to public bodies; authorizing certain public participation; requiring recording and confirmation of certain votes; establishing requirements for retention of certain recordings; authorizing members of public bodies to participate in executive sessions by electronic means under certain circumstances; requiring access by electronic means to certain meetings be provided at no cost to the public; prohibiting certain private electronic communications under certain circumstances; providing immunity from liability for public body under certain circumstances; updating statutory references; providing for codification; and providing an effective date.

1
2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

3 SECTION 1. AMENDATORY 25 O.S. 2021, Section 304, as last
4 amended by Section 3 of Enrolled House Bill No. 1382 of the 2nd
5 Session of the 59th Oklahoma Legislature, is amended to read as
6 follows:

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

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

22 a. the state judiciary,
23
24

- 1 b. the Council on Judicial Complaints when conducting,
2 discussing, or deliberating any matter relating to a
3 complaint received or filed with the Council,
4 c. the Legislature, ~~or~~
5 d. administrative staffs of public bodies including~~7~~ but
6 not limited to~~7~~ faculty meetings and athletic staff
7 meetings of institutions of higher education when
8 those staffs are not meeting with the public body, or
9 entry-year assistance committees. ~~Furthermore, public~~
10 ~~body shall not include the,~~
11 e. multidisciplinary teams provided for in Section 1-9-
12 102 of Title 10A of the Oklahoma Statutes, in Section
13 10-115 of Title 43A of the Oklahoma Statutes, and in
14 subsection C of Section 1-502.2 of Title 63 of the
15 Oklahoma Statutes or any school board meeting for the
16 sole purpose of considering recommendations of a
17 multidisciplinary team and deciding the placement of
18 any child who is the subject of the recommendations.
19 ~~Furthermore, public body shall not include,~~
20 f. meetings conducted by stewards designated by the
21 Oklahoma Horse Racing Commission pursuant to Section
22 203.4 of Title 3A of the Oklahoma Statutes when the
23 stewards are officiating at races or otherwise
24

1 enforcing rules of the Commission. ~~Furthermore,~~
2 ~~public body shall not include,~~

3 g. the board of directors of a Federally Qualified Health
4 Center, or

5 h. the postadjudication review boards provided for in
6 Sections 1116.2 and 1116.3 of Title 10 of the Oklahoma
7 Statutes;

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~~ utilizing electronic means. Meeting shall not
12 include informal gatherings of a majority of the members of the
13 public body when no business of the 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 including but not limited to a public
20 health emergency. For purposes of the Oklahoma Open Meeting Act, an
21 ~~emergency is defined as~~ "emergency" means a situation involving
22 injury to persons or injury and damage to public or personal
23 property or immediate financial loss when the time requirements for
24 public notice of a special meeting would make such procedure

1 impractical and increase the likelihood of injury or damage or
2 immediate financial loss;

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"~~ "Public health emergency" means an
10 occurrence of imminent threat of an illness or health condition that
11 poses a high probability of a large number of deaths or serious or
12 long-term disabilities in the affected population, or widespread
13 exposure to an infectious or toxic agent that poses a significant
14 risk of harm to a large number of people in the affected population,
15 for which the Governor or an elected official or officials of a
16 political subdivision are authorized by law to declare an emergency;
17 and

18 8. "Electronic means" means a ~~conference among~~ method of
19 linking members of a public body remote from one another ~~who are~~
20 ~~linked~~ by interactive telecommunication devices or technology ~~and/or~~
21 or other technology permitting both visual and auditory
22 communication between and among members of the public body ~~and/or~~
23 and between and among members of the public body and members of the
24 public. During any ~~videoconference~~ meeting conducted utilizing

1 electronic means, both the visual and auditory communications
2 functions shall attempt to be utilized; ~~and~~

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

9 SECTION 2. AMENDATORY 25 O.S. 2021, Section 307.1, as
10 last amended by Section 1 of Enrolled House Bill No. 3780 of the 2nd
11 Session of the 59th Oklahoma Legislature, is amended to read as
12 follows:

13 Section 307.1. A. A public body may hold meetings ~~by~~
14 ~~videoconference~~ utilizing electronic means where each member of the
15 public body is visible and audible to each other and the public
16 through a video monitor, subject to the following:

17 1. a. except as provided for in ~~subparagraph~~ subparagraphs

18 b, c, and d of this paragraph, no less than a quorum
19 of the public body shall be present in person at the
20 physical meeting site as posted on the meeting notice
21 and agenda,

22 b. a virtual charter school approved and sponsored by the
23 Statewide ~~Virtual~~ Charter School Board pursuant to the
24 provisions of Section ~~3-145.3~~ 3-134 of Title 70 of the

Oklahoma Statutes shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, ~~videoconference sites~~ electronic means, or any combination of such sites to achieve a quorum, and

c. the board of a community action agency established pursuant to Sections 5035 through 5040 of Title 74 of the Oklahoma Statutes shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, electronic means, or any combination of such sites to achieve a quorum,

d. the Oklahoma State University Medical Authority and Trust established pursuant to Sections 3271 through 3293 of Title 63 of the Oklahoma Statutes shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, electronic means, or any combination of such sites to achieve a quorum, and

e. each public meeting held by ~~videoconference or teleconference~~ utilizing electronic means shall be recorded either by written, electronic, or other means;

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 ~~videoconferencing~~ electronic locations and shall state:

4 a. the location, address, ~~and~~ website or link, or
5 telephone number of each available ~~videoconference~~
6 physical or electronic site, if applicable, and

7 b. the identity of each member of the public body and the
8 specific physical or electronic site from which each
9 member of the body shall be physically or
10 electronically present and participating in the
11 meeting; and

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

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

23 ~~5. Each site and room where a member of the public body is~~
24 ~~present for a meeting by videoconference shall be open and~~

1 ~~accessible to the public, and the public shall be allowed into that~~
2 ~~site and room. Public bodies may provide additional videoconference~~
3 ~~sites as a convenience to the public, but additional sites shall not~~
4 ~~be used to exclude or discourage public attendance at any~~
5 ~~videoconference site;~~

6 ~~6. The public shall be allowed to participate and speak, as~~
7 ~~allowed by rule or policy set by the public body, in a meeting at~~
8 ~~the videoconference site in the same manner and to the same extent~~
9 ~~as the public is allowed to participate or speak at the site of the~~
10 ~~meeting;~~

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

15 ~~8. All votes occurring during any meeting conducted using~~
16 ~~videoconferencing shall occur and be recorded by roll call vote by~~
17 ~~electronic means unless such remote participation was specifically~~
18 ~~authorized in the meeting notice.~~

19 ~~B. Except as provided for in subsection C of this section, no A~~
20 ~~public body shall conduct an executive session by videoconference~~
21 ~~may hold meetings utilizing electronic means without a quorum at a~~
22 ~~physical location open to the public in the following circumstances:~~

1 1. Any meeting conducted by a virtual charter school approved
2 and sponsored by the Statewide Charter School Board pursuant to the
3 provisions of the Oklahoma Statutes;

4 2. Any meeting conducted by the board of a community action
5 agency established pursuant to Sections 5035 through 5040 of Title
6 74 of the Oklahoma Statutes;

7 3. Any meeting conducted by the Oklahoma State University
8 Medical Authority and Trust established pursuant to Sections 3271
9 through 3293 of Title 63 of the Oklahoma Statutes;

10 4. During a declared state of emergency in which the public
11 body is unable to utilize the physical meeting location. A state of
12 emergency declared by an elected official or officials of a
13 political subdivision as authorized by law shall not be a sufficient
14 reason to suspend the use of a physical location open to the public
15 for more than three consecutive meetings unless a state of emergency
16 covering the political subdivision is concurrently declared by the
17 Governor; or

18 5. If the physical location designated on the meeting notice
19 has become unsafe or otherwise inaccessible to the members of the
20 public body and the public due to circumstances including, but not
21 limited to, a gas leak, electrical failure, or structural damage to
22 the physical location.

23 The public body shall maintain a quorum of members for the
24 entire duration of the meeting whether using an in-person site,

1 electronic means, or any combination of such sites to achieve a
2 quorum.

3 C. The Oklahoma Tax Commission may conduct executive sessions
4 with the taxpayer at issue attending using ~~videoconference~~
5 ~~technology~~ electronic means to discuss confidential taxpayer matters
6 as provided for in Section 205 of Title 68 of the Oklahoma Statutes.
7 During executive sessions, the Commission is required to be
8 physically present while taxpayers may appear using ~~videoconference~~
9 ~~technology~~ electronic means. The technology selected and utilized
10 by the Commission shall ensure taxpayer confidentiality including
11 compliance with safeguards as provided for in Internal Revenue
12 Service Publication 1075.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 307.2 of Title 25, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A public body may conduct regular and special meetings
17 utilizing electronic means subject to the following requirements:

18 1. A quorum of members must be physically present in the
19 physical meeting location of the public body as provided in the
20 meeting notice; provided, however, a public body may conduct an
21 emergency meeting utilizing electronic means without a quorum
22 present at the physical location pursuant to Section 307.1 of Title
23 25 of the Oklahoma Statutes;

1 2. No member of a public body may participate in a regular or
2 special meeting utilizing electronic means for more than one-fourth
3 (1/4) of such meetings in a rolling one-year period;

4 3. A member of a public body participating in a meeting
5 utilizing electronic means shall be confirmed by audio or visual
6 affirmation to the public to be the actual member of the governing
7 body and may only participate from a fixed physical location;

8 4. Documents or other materials provided to members of the
9 public body or shared electronically between members of the public
10 body during a meeting utilizing electronic means shall be made
11 immediately available to the public on the website of the public
12 body if the public body maintains a website, or through distribution
13 or viewing on the site streaming the meeting;

14 5. The public shall be allowed to participate in meetings
15 conducted utilizing electronic means to the extent such
16 participation is consistent with current law or adopted rules or
17 policy of the public body;

18 6. All votes occurring during any meeting by members utilizing
19 electronic means shall be recorded by roll call vote with visual and
20 auditory confirmation of the member casting the vote;

21 7. Recordings of the meetings conducted through electronic
22 means shall be maintained by the public body until minutes of the
23 proceedings are open to public inspection, including but not limited
24

1 to posting on a website of the public body, as required by Section
2 312 of Title 25 of the Oklahoma Statutes; and

3 8. A member of a public body participating in a meeting
4 utilizing electronic means may participate in executive sessions of
5 the public body provided all notice and agenda requirements for the
6 member's remote participation have been met.

7 B. Meetings held without a physical meeting place open to the
8 public shall be streamed or otherwise made available to the public
9 at no charge by utilizing electronic means, the website of the
10 public body, the Internet, or any other free subscription digital
11 service or application.

12 C. No private electronic communications concerning public
13 business may occur between members of the public body during a
14 public meeting.

15 D. A public body that makes a good-faith effort to comply with
16 the provisions of this section shall be immune from liability for
17 court costs and attorney fees in a civil action brought for a
18 violation of the requirements of this section.

19 SECTION 4. This act shall become effective November 1, 2024.
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