

ESHB 1329 - S COMM AMD

By Committee on State Government & Elections

NOT CONSIDERED 04/26/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds people
4 participating in their government, especially through public comment,
5 is an essential part of developing public policy. The legislature
6 further finds that there are numerous developing technologies that
7 can be used to facilitate public comment, especially for those with
8 disabilities, underserved communities, and those who face time or
9 distance challenges when traveling to public meetings. Therefore, the
10 legislature intends to encourage public agencies to make use of
11 remote access tools as fully as practicable to encourage public
12 engagement and better serve their communities.

13 **Sec. 2.** RCW 42.30.010 and 1971 ex.s. c 250 s 1 are each amended
14 to read as follows:

15 The legislature finds and declares that all public commissions,
16 boards, councils, committees, subcommittees, departments, divisions,
17 offices, and all other public agencies of this state and subdivisions
18 thereof exist to aid in the conduct of the people's business. It is
19 the intent of this chapter that their actions be taken openly and
20 that their deliberations be conducted openly.

21 The people of this state do not yield their sovereignty to the
22 agencies which serve them. The people, in delegating authority, do
23 not give their public servants the right to decide what is good for
24 the people to know and what is not good for them to know. The people
25 insist on remaining informed and informing the people's public
26 servants of their views so that they may retain control over the
27 instruments they have created. For these reasons, even when not
28 required by law, public agencies are encouraged to incorporate and
29 accept public comment during their decision-making process.

1 **Sec. 3.** RCW 42.30.030 and 1971 ex.s. c 250 s 3 are each amended
2 to read as follows:

3 (1) All meetings of the governing body of a public agency shall
4 be open and public and all persons shall be permitted to attend any
5 meeting of the governing body of a public agency, except as otherwise
6 provided in this chapter.

7 (2) Public agencies are encouraged to provide for the increased
8 ability of the public to observe and participate in the meetings of
9 governing bodies through real-time telephonic, electronic, internet,
10 or other readily available means of remote access that do not require
11 an additional cost to access the meeting.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.30
13 RCW to read as follows:

14 (1) Public agencies are encouraged to make an audio or video
15 recording of, or to provide an online streaming option for, all
16 regular meetings of its governing body, and to make recordings of
17 these meetings available online for a minimum of six months.

18 (2) This section does not alter a local government's
19 recordkeeping requirements under chapter 42.56 RCW.

20 **Sec. 5.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to
21 read as follows:

22 (1) Nothing contained in this chapter may be construed to prevent
23 a governing body from holding an executive session during a regular
24 or special meeting:

25 (a) (i) To consider matters affecting national security;

26 (ii) To consider, if in compliance with any required data
27 security breach disclosure under RCW 19.255.010 and 42.56.590, and
28 with legal counsel available, information regarding the
29 infrastructure and security of computer and telecommunications
30 networks, security and service recovery plans, security risk
31 assessments and security test results to the extent that they
32 identify specific system vulnerabilities, and other information that
33 if made public may increase the risk to the confidentiality,
34 integrity, or availability of agency security or to information
35 technology infrastructure or assets;

36 (b) To consider the selection of a site or the acquisition of
37 real estate by lease or purchase when public knowledge regarding such
38 consideration would cause a likelihood of increased price;

1 (c) To consider the minimum price at which real estate will be
2 offered for sale or lease when public knowledge regarding such
3 consideration would cause a likelihood of decreased price. However,
4 final action selling or leasing public property shall be taken in a
5 meeting open to the public;

6 (d) To review negotiations on the performance of publicly bid
7 contracts when public knowledge regarding such consideration would
8 cause a likelihood of increased costs;

9 (e) To consider, in the case of an export trading company,
10 financial and commercial information supplied by private persons to
11 the export trading company;

12 (f) To receive and evaluate complaints or charges brought against
13 a public officer or employee. However, upon the request of such
14 officer or employee, a public hearing or a meeting open to the public
15 shall be conducted upon such complaint or charge;

16 (g) To evaluate the qualifications of an applicant for public
17 employment or to review the performance of a public employee.
18 However, subject to RCW 42.30.140(4), discussion by a governing body
19 of salaries, wages, and other conditions of employment to be
20 generally applied within the agency shall occur in a meeting open to
21 the public, and when a governing body elects to take final action
22 hiring, setting the salary of an individual employee or class of
23 employees, or discharging or disciplining an employee, that action
24 shall be taken in a meeting open to the public;

25 (h) To evaluate the qualifications of a candidate for appointment
26 to elective office. However, any interview of such candidate and
27 final action appointing a candidate to elective office shall be in a
28 meeting open to the public;

29 (i) To discuss with legal counsel representing the agency matters
30 relating to agency enforcement actions, or to discuss with legal
31 counsel representing the agency litigation or potential litigation to
32 which the agency, the governing body, or a member acting in an
33 official capacity is, or is likely to become, a party, when public
34 knowledge regarding the discussion is likely to result in an adverse
35 legal or financial consequence to the agency.

36 This subsection (1)(i) does not permit a governing body to hold
37 an executive session solely because an attorney representing the
38 agency is present. For purposes of this subsection (1)(i), "potential
39 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
40 concerning:

1 (i) Litigation that has been specifically threatened to which the
2 agency, the governing body, or a member acting in an official
3 capacity is, or is likely to become, a party;

4 (ii) Litigation that the agency reasonably believes may be
5 commenced by or against the agency, the governing body, or a member
6 acting in an official capacity; or

7 (iii) Litigation or legal risks of a proposed action or current
8 practice that the agency has identified when public discussion of the
9 litigation or legal risks is likely to result in an adverse legal or
10 financial consequence to the agency;

11 (j) To consider, in the case of the state library commission or
12 its advisory bodies, western library network prices, products,
13 equipment, and services, when such discussion would be likely to
14 adversely affect the network's ability to conduct business in a
15 competitive economic climate. However, final action on these matters
16 shall be taken in a meeting open to the public;

17 (k) To consider, in the case of the state investment board,
18 financial and commercial information when the information relates to
19 the investment of public trust or retirement funds and when public
20 knowledge regarding the discussion would result in loss to such funds
21 or in private loss to the providers of this information;

22 (l) To consider proprietary or confidential nonpublished
23 information related to the development, acquisition, or
24 implementation of state purchased health care services as provided in
25 RCW 41.05.026;

26 (m) To consider in the case of the life sciences discovery fund
27 authority, the substance of grant applications and grant awards when
28 public knowledge regarding the discussion would reasonably be
29 expected to result in private loss to the providers of this
30 information;

31 (n) To consider in the case of a health sciences and services
32 authority, the substance of grant applications and grant awards when
33 public knowledge regarding the discussion would reasonably be
34 expected to result in private loss to the providers of this
35 information;

36 (o) To consider information regarding staff privileges or quality
37 improvement committees under RCW 70.41.205.

38 (2) Before convening in executive session, the presiding officer
39 of a governing body shall publicly announce the purpose for excluding
40 the public from the meeting place, and the time when the executive

1 session will be concluded. The executive session may be extended to a
2 stated later time by announcement of the presiding officer. The
3 announced purpose of excluding the public must be entered into the
4 minutes of the meeting required by RCW 42.30.035.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.30
6 RCW to read as follows:

7 (1) Except in an emergency situation, the governing body of a
8 public agency shall provide an opportunity at or before every regular
9 meeting at which final action is taken for public comment. The public
10 comment required under this section may be taken orally at a public
11 meeting, or by providing an opportunity for written testimony to be
12 submitted before or at the meeting. If the governing body accepts
13 written testimony, this testimony must be distributed to the
14 governing body. The governing body may set a reasonable deadline for
15 the submission of written testimony before the meeting.

16 (2) Upon the request of any individual who will have difficulty
17 attending a meeting of the governing body of a public agency by
18 reason of disability, limited mobility, or for any other reason that
19 makes physical attendance at a meeting difficult, the governing body
20 shall, when feasible, provide an opportunity for that individual to
21 provide oral comment at the meeting remotely if oral comment from
22 other members of the public will be accepted at the meeting.

23 (3) Nothing in this section prevents a governing body from
24 allowing public comment on items not on the meeting agenda.

25 (4) Nothing in this section diminishes the authority of governing
26 bodies to deal with interruptions under RCW 42.30.050, limits the
27 ability of the governing body to put limitations on the time
28 available for public comment or on how public comment is accepted, or
29 requires a governing body to accept public comment that renders
30 orderly conduct of the meeting unfeasible.

31 **Sec. 7.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each amended
32 to read as follows:

33 This chapter may be known and cited as the (~~"Open Public~~
34 ~~Meetings Act of 1971".~~) Washington state open public meetings act or
35 OPMA."

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1 On page 1, line 2 of the title, after "participation;" strike the
2 remainder of the title and insert "amending RCW 42.30.010, 42.30.030,
3 42.30.110, and 42.30.900; adding new sections to chapter 42.30 RCW;
4 and creating a new section."

EFFECT: Removes section of the bill naming the act after Heather
"Newsbrooke" Brooke, Ph.D.

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