

HOUSE BILL REPORT

ESHB 1329

As Amended by the Senate

Title: An act relating to public meeting accessibility and participation.

Brief Description: Concerning public meeting accessibility and participation.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Wicks, Pollet, Taylor, Ryu, Wylie, Shewmake, Bateman, Lovick, Fey, Morgan, Lekanoff, Harris-Talley and Peterson).

Brief History:

Committee Activity:

Local Government: 1/26/21, 2/15/21 [DPS].

Floor Activity:

Passed House: 2/26/21, 89-6.

Passed House: 1/12/22, 79-16.

Senate Amended.

Passed Senate: 3/3/22, 47-0.

Brief Summary of Engrossed Substitute Bill

- Encourages public agencies to provide for remote access to meetings of their governing bodies, and to record and post recordings of meetings online for at least six months.
- Requires governing bodies to provide an opportunity for public comment at or before every regular meeting at which final action is taken, except in emergency situations.
- Allows the public comment requirement to be satisfied by accepting oral testimony at a meeting, or by providing an opportunity for written testimony to be submitted prior to the meeting.
- Requires governing bodies, upon the request of an individual who, because of disability, limited mobility, or other reason, will find physical

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attendance at a meeting difficult, to provide an opportunity for remote oral comment for that individual if doing so feasible and if oral public comment from other members of the public will be accepted at the meeting.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Duerr, Vice Chair; Berg and Senn.

Minority Report: Without recommendation. Signed by 3 members: Representatives Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Robertson.

Staff: Kellen Wright (786-7134).

Background:

The meetings of the governing body of a public agency must, with limited exceptions, be open to the public. Public agencies include all state boards, agencies, commissions, and education institutions created by statute, as well as all counties, cities, school districts, and special purpose districts. A meeting is a gathering of the governing body where the transaction of the official business of the public agency occurs. The transaction of official business includes, but is not limited to, the receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.

The governing body may enter into executive session for deliberations, and exclude the members of the public from the executive session, under certain circumstances.

Meetings of the governing body require a physical location for the public to attend and for notice to be given. Minutes must be taken at all regular and special meetings, and the minutes must be available for public inspection.

A governing body is not required to take public testimony during a meeting.

Summary of Engrossed Substitute Bill:

Public agencies are encouraged to provide for increased public access and participation in governing body meetings through real-time telephone, Internet, or other readily available means of remote access to the meeting that does not require an additional cost for accessing the meeting. Public agencies are also encouraged to make an audio or video recording of, or to provide a streaming option for, all regular governing body meetings, and to make the

recordings of such meetings available online for at least six months.

The purpose for excluding the public from an executive session must be entered into the minutes of the meeting.

Except in an emergency situation, the governing body of a public agency must provide an opportunity for public comment at or before every regular meeting at which final action is taken. Public comment can be taken orally at the meeting, or by providing an opportunity for submitting written comment prior to the meeting. The governing body may set a reasonable deadline for the submission of this written comment before the meeting. Written comment must be distributed to the members of the governing body.

The requirement to accept public comment does not limit the authority of the governing body to deal with interruptions, to put limitations on the time or nature of public comments, or to accept public comment that prevents the orderly conduct of a meeting.

When an individual requests the opportunity to provide oral comment at a meeting remotely because of disability, limited mobility, or another reason that makes physical attendance at a meeting difficult, the governing body shall, when feasible, provide the opportunity if other members of the public will be allowed to provide oral comment at the meeting.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendments:

- add additional intent language;
- allows a public agency to hold meetings of its governing body remotely, or with limited in-person attendance, after a declared emergency if an in-person meeting with public attendance cannot be held with reasonable safety because of the emergency;
- allows members of the governing body to appear at a remote meeting by phone or other electronic means that allows for real-time verbal communication, and requires that, if public attendance at the meeting is limited or prohibited, that the public agency must provide an option to listen to the proceedings by phone or other readily available means that does not require an additional cost for participation;
- requires that the notice of a regular meeting that is held remotely or meeting with limited in-person attendance must provide instructions for how the public may listen to the proceedings, and that notice of a remote special meeting during an emergency be posted online if the agency has or shares a website;
- allows an agency to forgo physically posting notice of a special meeting at its principal location when the posting cannot be done with reasonable safety or when the notice is posted online, and removes the requirement for physically posting an adjournment notice when a meeting is held remotely;
- allows public agencies that held some regular meetings remotely prior to March 1, 2020, to continue to do so as long as the public is provided an option to listen to the proceedings;

- allows a governing body to impose generally applicable conditions for the attendance of a meeting when reasonably necessary to protect public health or safety, or to protect against interruption of the meeting;
- requires public agencies with governing bodies, except for certain special purpose districts, cities, and towns, to post the agenda of each regular meeting online at least 24 hours prior to the meeting, and allows an agency to share a website with another public agency for this purpose;
- adds an emergency clause applicable to the provisions of the bill dealing with remote meetings; and
- removes provision naming the act after Heather "Newsbrooke" Brooke, Ph.D.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) During the months of the COVID-19 pandemic, people have been working to ensure that transparency is not a victim of the pandemic. Generally, the efforts of local agencies have been good. Hopefully this can broaden citizen participation and civic engagement in democracy. People with disabilities, and those who have caregiving responsibilities, have a difficult time traveling to meetings. The disability community has learned that making requirements voluntary means that they do not happen. The changes in this bill are meaningful. With this bill, we can guarantee public comment as a right and increase inclusivity of all voices and accountability. Local government officials have supported this bill. Allowing in-person meetings to be eliminated is problematic, as in-person meetings are important. Both in person and virtual options should be offered.

(Opposed) None.

(Other) Recordings are important as they allow a full record of proceedings to be maintained. These recordings should be maintained according to the Public Records Act retention schedules. Having different requirements under this bill and under the Public Records Act could create confusion. This bill has both positive and negative aspects, and should be making things better, not more confusing. There is worry that the language about impracticability will lead to litigation. Adding remote testimony requirements are beneficial for the disability community and anyone who is travelling from a distance, but the remote option should not replace the in-person option. There is a benefit for elected officials to see their constituents face to face at meetings.

Persons Testifying: (In support) Representative Wicks, prime sponsor; Joe Kunzler; Juli

Bunting, Washington Coalition for Open Government; Anna Zivarts, Disability Rights Washington; and Logan Camporeale.

(Other) Mellani McAleenan, Washington State Association of Counties; Rowland Thompson, Allied Daily Newspapers of Washington; and Jennifer Heine-Withee.

Persons Signed In To Testify But Not Testifying: Candice Bock, Association of Washington Cities.