

SENATE BILL REPORT

ESHB 1056

As Reported by Senate Committee On:
State Government & Elections, March 17, 2021

Title: An act relating to open public meeting notice requirements and declared emergencies.

Brief Description: Concerning open public meeting notice requirements and declared emergencies.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Pollet, Goehner, Kloba, Lekanoff, Leavitt, Senn, Callan and Fey).

Brief History: Passed House: 1/22/21, 98-0.

Committee Activity: State Government & Elections: 2/12/21, 3/17/21 [DPA].

Brief Summary of Amended Bill

- Allows a public agency to hold meetings of its governing body remotely or with limited in-person attendance after a declared emergency.
- Requires that the public be allowed to listen in real time and at no cost to meetings that are held remotely or with limited in-person attendance.
- Requires all public agencies, except for certain special purpose districts, cities, and towns, to post agendas online for regular meetings and for special meetings held remotely or with limited in-person attendance.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Staff: Samuel Brown (786-7470)

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Wilson, J., Ranking Member;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Hasegawa and Hawkins.

Staff: Samuel Brown (786-7470)

Background: Open Public Meetings Act. The meetings of the governing body of a public agency must, with limited exceptions, be open to the public. Any member of the public who wants to attend such a meeting must be permitted to do so without conditions, such as requiring the provision of a name or address, imposed on attendance. Governing bodies may not adopt any ordinance, resolution, rule, regulation, order, or directive outside of a properly noticed meeting that is open to the public. Any action taken at a meeting that violates these requirements is void.

Governing bodies must establish a regular meeting time and publish a meeting schedule in the state register. If the agency has a website and employs at least ten full-time equivalent employees, agendas of regular meetings must be posted online at least 24 hours in advance of the meeting.

Special Meetings. Special meetings may be held if certain notice requirements are met, including the posting of notice on an agency's website and the prominent display of notice outside of its principal location at least 24 hours prior to the meeting. If the meeting will be held somewhere other than the agency's principal location, then notice must also be posted at that location at least 24 hours prior to the meeting. An agency is not required to post notice of the special meeting on its website if it:

- does not have a website;
- has fewer than ten full-time equivalent employees; or
- does not employ anyone whose job description or contract includes maintaining or updating the website.

Meetings During Emergencies. When an expedited response from a governing body is needed to respond to an emergency, such as a fire, flood, or earthquake, and compliance with notice requirements is impractical and would increase the likelihood of injury or damage, the governing body may meet at a location other than a regular meeting site, and without first providing notice.

Summary of Amended Bill: Attendance at Public Meetings. A governing body may limit attendance at a public meeting or hold a meeting remotely during a declared state of emergency if it determines the meeting cannot be held in-person with reasonable safety. The public agency must provide an option for the public, at no cost, to listen to the meeting if in-person attendance is at all restricted. If the public agency has not provided such an option, then no action may be taken at the meeting. Notice provided for a remote meeting or a meeting with limited public attendance must provide instructions for how the public may attend remotely.

Agencies may impose generally applicable conditions on meeting attendance, including at

remote meetings or meetings with limited in-person attendance, that the governing body determines are reasonably necessary to protect public health or safety, or against interruption of the meeting.

Notice of Public Meetings. An agency may share a website with, or have its website hosted by, another agency. An agency must post regular meeting agendas online at least 24 hours prior to the scheduled meeting unless it is a special purpose district, city, or town:

- with less than \$400 million of taxable property;
- with fewer than 3000 residents; and
- where posting notice online would cost more than 0.1 percent of the jurisdiction's budget.

Notice of Special Meetings. Notice of special meetings must be posted online unless the agency:

- does not have or share a website;
- has no full-time equivalent employees; or
- has no personnel whose duty it is to maintain or update the website.

Notice of any special meeting held remotely or with limited in-person attendance due to a declared emergency must be posted online if the agency has or shares a website.

Notice of a special meeting does not need to be physically posted at the agency's principal location:

- when physical posting cannot be done with reasonable safety under the circumstances; or
- for a meeting held remotely or with limited in-person attendance due to a declared emergency if notice of the meeting is instead posted on the agency's website.

EFFECT OF STATE GOVERNMENT & ELECTIONS COMMITTEE AMENDMENT(S):

Language is added clarifying that any public agency which held at least some public meetings remotely prior to March 1, 2020, may continue to do so with no declared state of emergency if the agency provides an option for the public to listen to the proceedings consistent with the act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: We want to make it possible to give notice and have the public and news media observe what elected officials are doing when meeting during emergencies. Public agencies have been conducting remote meetings during the pandemic pursuant to executive orders, but those need frequent renewal, and that process was not great. Many emergencies are of shorter duration, so this will allow governments to be prepared and make things smoother for the public. The statutes have not been updated since 1983, so this will allow us to use modern technology, giving jurisdictions the flexibility they need to operate safely in all kinds of emergency scenarios. Remote meetings save members' time, allow for public access, and reduce emissions. It is easier to deal with disruptions in online meetings. This modernizes the Open Public Meetings Act and will help school districts, which face a heavy lift getting kids back to school.

Persons Testifying: PRO: Representative Gerry Pollet, Prime Sponsor; Mike Hoover, Washington State Association of Counties; Joe Kunzler; Candice Bock, Association of Washington Cities; Joren Clowers, Washington Association of Sewer and Water Districts; Jake Kuper.

Persons Signed In To Testify But Not Testifying: No one.