Utah Code -- Title 52 -- Chapter 04 -- Open and Public Meetings Act

(as of 5/2010)

52-4-101. Title.
This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

52-4-102. Declaration of public policy.
(1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
(a) take their actions openly; and
(b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

52-4-103. Definitions.
As used in this chapter:
(1) "Anchor location" means the physical location from which:
(a) an electronic meeting originates; or
(b) the participants are connected.
(2) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
(3) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
(4) (a) "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.
(b) "Meeting" does not mean:
(i) a chance meeting;
(ii) a social meeting; or
(iii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:
(A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or
(B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.
(5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.
(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.
(7) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and
(iv) is vested with the authority to make decisions regarding the public's business.
(b) "Public body" does not include a:
(i) political party, political group, or political caucus; or
(ii) conference committee, rules committee, or sifting committee of the Legislature.
(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
(9) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.
(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

Amended by Chapter 35, 2007 General Session
Amended by Chapter 45, 2007 General Session

52-4-104. Training.
The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

52-4-201. Meetings open to the public -- Exceptions.
(1) A meeting is open to the public unless closed under Sections **52-4-204**, **52-4-205**, and **52-4-206**.
(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section **52-4-207**; or
(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Renumbered and Amended by Chapter 14, 2006 General Session
Amended by Chapter 263, 2006 General Session

52-4-202. Public notice of meetings -- Emergency meetings.
(1) A public body shall give not less than 24 hours public notice of each meeting including the meeting:
(a) agenda;
(b) date;
(c) time; and
(d) place.
(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) Public notice shall be satisfied by:

(i) posting written notice:

(A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section **63F-1-701**; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than $1 million.

(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection **63F-1-701**(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

Amended by Chapter 5, 2009 Special Session 1

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(d) a record, by individual member, of each vote taken by the public body;

(e) the name of each person who:

(i) is not a member of the public body; and

(ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and

(g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) The written minutes and recording of an open meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act, as follows:

(a) Written minutes that have been prepared in a form awaiting only formal approval by the public body are a public record.

(b) Written minutes shall be available to the public within a reasonable time after the end of the meeting.

(c) Written minutes that are made available to the public before approval by the public body under Subsection (4)(d) shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the written minutes are subject to change until formally approved.

(d) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(e) Written minutes are the official record of action taken at the meeting.

(f) A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

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(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Amended by Chapter 137, 2009 General Session

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section **52-4-202**; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section **52-4-205**, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting; or

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section **52-4-202**, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints".

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section **52-4-205**.

(3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection **52-4-205**(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 35, 2010 General Session
Amended by Chapter 239, 2010 General Session

52-4-205. Purposes of closed meetings.

(1) A closed meeting described under Section **52-4-204** may only be held for:

(a) discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection **52-4-204**(1)(a)(iii)(B);

(j) as relates to a county legislative body, discussing commercial information as defined in Section **59-1-404**; or

(k) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection **62A-16-301**(1)(a), and the responses to the report described in Subsections**62A-16-301**(2) and (4); and

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection **62A-16-301**(1)(a), and the responses to the report described in Subsections **62A-16-301**(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection **62A-4a-207**(5).

(3) A public body may not interview a person applying to fill an elected position in a closed meeting.

Amended by Chapter 35, 2010 General Session
Amended by Chapter 60, 2010 General Session
Amended by Chapter 239, 2010 General Session

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection **52-4-205**(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section **52-4-304**.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection **52-4-205**(1)(a), (1)(f), or (2):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection **52-4-205**(1)(a),(1)(f), or (2); and

(b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 239, 2010 General Session

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) A public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section **52-4-202**; and

(ii) post written notice at the anchor location;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a

quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections **52-4-201** and **52-4-202**.

Amended by Chapter 45, 2007 General Session

52-4-208. Chance or social meetings.

(1) This chapter does not apply to any chance meeting or a social meeting.

(2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

52-4-301. Disruption of meetings.

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

52-4-302. Suit to void final action -- Limitation -- Exceptions.

(1) (a) Any final action taken in violation of Section **52-4-201**, **52-4-202**, or **52-4-207** is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection **52-4-202**(3)(a)(i)(B) if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii) (A) the public body otherwise complies with the provisions of Section **52-4-202**; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 234, 2008 General Session

52-4-303. Enforcement of chapter -- Suit to compel compliance.

(1) The attorney general and county attorneys of the state shall enforce this chapter.

(2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.

(3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:

(a) compel compliance with or enjoin violations of this chapter; or

(b) determine the chapter's applicability to discussions or decisions of a public body.

(4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session
Amended by Chapter 263, 2006 General Session

52-4-304. Action challenging closed meeting.

(1) Notwithstanding the procedure established under Subsection **63G-2-202**(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

(a) review the recording or written minutes of the closed meeting in camera; and

(b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate Section **52-4-204**, **52-4-205**, or **52-4-206** regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated Section **52-4-204**, **52-4-205**, or **52-4-206** regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

Amended by Chapter 382, 2008 General Session

52-4-305. Criminal penalty for closed meeting violation.

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session