

2021 Legislative Updates
UTAH OPEN & PUBLIC
MEETINGS ACT
UTAH CODE TITLE 52, CHAPTER 4

Utah Division of Archives and Records

April 7, 2021



Purpose of this presentation:

- General explanation about the purpose of the Open and Public Meetings Act (“OPMA”)
- Review of changes made in OPMA during the 2021 Legislative Session

WHAT IS OPMA?

WHAT IS OPMA?

Open and
Public
Meetings
Act

Declaration of Public Policy Utah Code §52- 4-102

- (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.*



UTAH OPEN & PUBLIC MEETINGS ACT

- WHAT DOES THE OPEN MEETINGS ACT DO?
 - “It requires government to take actions openly.”
 - “Ensures deliberations allow for an open public process.”
-
- In other words, we want the people to know what is going on with state government.

Four Bills from 2021 with Substantive Changes to OPMA

- S.B. 72 “Open and Public Meeting Amendments”
- S.B. 125 “Open and Public Meetings Act Amendments”
- H.B. 293 “Open Meeting Minutes Amendments”
- H.B. 297 “Colorado River Amendments”



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1

OPEN AND PUBLIC MEETINGS AMENDMENTS

2

2021 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Lincoln Fillmore

5

House Sponsor: Susan Pulsipher

6

7 LONG TITLE

8 General Description:

9 This bill modifies a provision relating to open and public meetings.

10 Highlighted Provisions:

11 This bill:

12 ► prohibits a vote in a closed meeting, except to end the closed portion of the meeting;

13 and

14 ► provides that a motion to end the closed portion of a meeting may be approved by a

15 majority vote.

S.B. 72

Bill Sponsor:



Sen. Fillmore, Lincoln

Floor Sponsor:



Rep. Pulsipher, Susan

Drafting Attorney: Robert H. Rees


Fiscal Analyst: Emily Willis

Bill Tracking

[Tracking Page](#)

Bill Text

[Introduced](#) 

[Enrolled](#)  (Currently Displayed)

Related Documents

Declaration of Public Policy Utah Code §52- 4-102

- (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.*



What Is Forbidden During A Closed Meeting?

- You may not:
 - Approve any ordinance, resolution, rule, regulation, contract or appointment
 - Interview a person to fill an elected position
 - Take final action
 - **Final votes must be open and on the record (except as allowed specifically by statute)**



Common Violations Of OPMA

- Failing to properly provide notice of a public meeting
- Discussing matters in a closed meeting that should be discussed during the open session
- Taking official or final action in a closed meeting
- Closing meetings without members of the body voting first in an open meeting to close the meeting
- Conducting a closed meeting for reasons other than those allowed by OPMA

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

68 (b) (i) A public body may not take a vote in a closed meeting, except for a vote on a
69 motion to end the closed portion of the meeting and return to an open meeting.

70 (ii) A motion to end the closed portion of a meeting may be approved by a majority of
71 the public body members present at the meeting.

Utah Code § 52-4-204(3)

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1

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

2

2021 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: David G. Buxton

5

House Sponsor: Timothy D. Hawkes

6

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- modifies provisions relating to the convening of an electronic meeting;
- requires a public body convening an electronic meeting to provide facilities at an anchor location for the public to attend the meeting;
- makes exceptions to the requirement to provide facilities at an anchor location; and
- makes technical changes.

S.B. 125

Bill Sponsor:



Sen. Buxton, David G.

Floor Sponsor:



Rep. Hawkes, Timothy D.

Substitute Sponsor: Sen. Buxton, David G.

Drafting Attorney: Robert H. Rees

Fiscal Analyst: Alexander R. Wilson

Bill Tracking

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Bill Text

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H.B. 5002 Open and Public Meetings Act Amendments

Bill Text

Status

Hearings/Debate

Enrolled

[Printer Friendly](#)

1

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

2

2020 FIFTH SPECIAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Val K. Potter

5

Senate Sponsor: Wayne A. Harper

6

LONG TITLE

General Description:

This bill amends provisions of the Open and Public Meetings Act in relation to an anchor location for an electronic meeting.

H.B. 5002

Bill Sponsor:



Rep. Potter, Val
K.

Floor Sponsor:



Sen. Harper, Wayne
A.

Drafting Attorney: Thomas R. Vaughn

Fiscal Analyst: Sean C. Faherty

Bill Tracking

[Tracking Page](#)

Bill Text

[Introduced](#)

Utah Code § 52-4-207(4)

Electronic Meetings (2020)

- A public body may convene and conduct an electronic meeting without an anchor location if the chair of the public body:
 - Makes a written determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location;
 - States in the written determination the facts upon which the determination is based;
 - Includes in the public notice for the meeting and reads at the beginning of the meeting the above information; and
 - Includes in the public notice information on how a member of the public may view or make a comment at the meeting.
- The written determination expires 30 days after the day on which the chair of the public body makes the determination.
- For an electronic meeting held without an anchor location, must provide means by which the public may hear, or view and hear, the open portions of the meeting.

~~[(c) except for an electronic meeting held without an anchor location under Subsection (4), 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) (i) 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; or]~~

~~[(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which the public may hear, or view and hear, the open portions of the meeting; and]~~

~~[(e) if comments from the public will be accepted during the electronic meeting;]~~

~~[(i) 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; or]~~

~~[(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which members of the public may provide comments by electronic means to the public body.]~~

~~[(4) A public body may convene and conduct an electronic meeting without an anchor location if]~~

~~[the chair of the public body:]~~

~~[(a) makes a written determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location;]~~

~~[(b) states in the written determination described in Subsection (4)(a) the facts upon which the determination is based;]~~

~~[(c) includes in the public notice for the meeting, and reads at the beginning of the meeting, the information described in Subsections (4)(a) and (b); and]~~

~~[(d) includes in the public notice information on how a member of the public may view or make a comment at the meeting.]~~

83 (4)(a) Except as provided in Subsection (5), a public body that convenes and conducts
84 an electronic meeting shall provide space and facilities at an anchor location for members of
85 the public to attend the open portions of the meeting.

86 (b) A public body that convenes and conducts an electronic meeting may provide
87 means by which members of the public who are not physically present at the anchor location
88 may attend the meeting remotely by electronic means.

89 (5) Subsection (4)(a) does not apply to an electronic meeting if:

90 (a)(i) the chair of the public body determines that:

91 (A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk
92 to the health or safety of those present or who would otherwise be present at the anchor
93 location; or

94 (B) the location where the public body would normally meet has been ordered closed
95 to the public for health or safety reasons; and

96 (ii) the public notice for the meeting includes:

97 (A) a statement describing the chair's determination under Subsection (5)(a)(i);

98 (B) a summary of the facts upon which the chair's determination is based; and

99 (C) information on how a member of the public may attend the meeting remotely by
100 electronic means; or

101 (b)(i) during the course of the electronic meeting, the chair:

102 (A) determines that continuing to conduct the electronic meeting as provided in
103 Subsection (4)(a) presents a substantial risk to the health or safety of those present at the
104 anchor location; and

105 (B) announces during the electronic meeting the chair's determination under Subsection
106 (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

107 (ii) in convening the electronic meeting, the public body has provided means by which
108 members of the public who are not physically present at the anchor location may attend the
109 electronic meeting remotely by electronic means.

Utah Code § 52-4-207(4) (2021)

- A public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public body to attend the open portions of the meeting.
- A public body that convenes and conducts an electronic meeting may provide means by which members of the public who are not physically present at the anchor location may attend the meeting remotely by electronic means.

Utah Code § 52-4-207(5)(a) (2021)

- An anchor location is not necessary if it “presents a substantial risk to the health or safety of those present...” or the anchor location “has been ordered closed to the public for health or safety reasons.”
- The public notice needs to include a statement of the chair’s determination including facts upon which the determination is based.
- The public notice must include how the public can attend remotely by electronic means

Utah Code § 52-4-207(5)(b) (2021)

- (5)(b) applies to “during the course of the electronic meeting, the chair...”
- Determines that conducting an electronic meeting with an anchor location presents a substantial risk to the health and safety of those present at the anchor location.
- Announces the determination and states a summary of the facts upon which the determination was made.

The Grand Take away is...?

- Legislature recognizes need to have public meetings but also the need to keep the public safe.
- Notice and easy access to electronic meetings are essential for both of those goals.



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H.B. 293

OPEN MEETING MINUTES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael J. Petersen

Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions related to the posting of minutes of open meetings.

Highlighted Provisions:

This bill:

- requires a state body that is not a public body or a specified local public body to:
 - post to the state public notice website a copy of the approved minutes and any public materials distributed at the meeting or a link to a website on which the approved minutes and any public materials distributed at the meeting are posted;

Bill Sponsor:



Rep. Petersen, Mike J.

Floor Sponsor:



Sen. Johnson, John D.

Substitute Sponsor: Rep. Petersen, Mike J.

Drafting Attorney: Rikka Strong

Fiscal Analyst: Sean C. Faherty

Bill Tracking

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Bill Text

[Introduced](#)

[Enrolled](#) (Currently Displayed)

104 (g) A public body that is not a state public body or a specified local public body shall:

107 (ii) within three business days after approving written minutes[, ~~make the approved~~
108 ~~minutes available to the public~~] of an open meeting;

109 (A) post and make available a copy of the approved minutes and any public materials

110 distributed at the meeting, as provided in Subsection (4)(e)(ii); or

111 (B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to

112 a website on which the approved minutes and any public materials distributed at the meeting

113 are posted; and

83 (e) A state public body shall:

84 (i) make pending minutes available to the public within 30 days after holding the open
85 meeting that is the subject of the pending minutes;

86 (ii) within three business days after approving written minutes of an open meeting:

87 (A) post to the state website a copy of the approved minutes and any public materials
88 distributed at the meeting;

89 (B) make the approved minutes and public materials available to the public at the
90 public body's primary office; and

91 (C) if the public body provides online minutes under Subsection (2)(b), post approved
92 minutes that comply with Subsection (2)(b) and the public materials on the public body's
93 website; and



Bill Text

Status

Hearings/Debate

Enrolled

Printer Friendly

1

COLORADO RIVER AMENDMENTS

2

2021 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Brad R. Wilson

5

Senate Sponsor: J. Stuart Adams

6

7 LONG TITLE

8 General Description:

9 This bill addresses Utah's management of Utah's Colorado River system interests.

10 Highlighted Provisions:

11 This bill:

12 ▸ enacts the Colorado River Authority of Utah Act, including:

13 • defining terms;

H.B. 297

Bill Sponsor:



Rep. Wilson, Brad R.

Floor Sponsor:



Sen. Adams, J. Stuart

Substitute Sponsor: Rep. Wilson, Brad R.

Drafting Attorney: Patricia Owen

Fiscal Analyst: Ivan D. Djambov

Bill Tracking

[Tracking Page](#)

Bill Text

[Introduced](#)

[Amended](#)

So why is
the
Colorado
River so
important?









es Novetres



Revolución

Calle Alamo

Calz. Saratoga

El tendedero



Av. Guamuchil

Cipreses



2

Av. Internacional

México
United States

Canal Alimentador Central

Morelos Dam



Barber shop
Asi Nomas



2

2

Google

Yuma Levee Rd

Colorado River Compact 1922

- Agreement between the Seven U.S. States within the Colorado River Watershed.
- The compact enabled widespread irrigation of the Southwest.
- The compact enabled state and federal works projects such as the Hoover Dam and Lake Powell.
- Guarantees an allocation of water to Mexico.
- Amendments have been made as needed based upon wet and dry years, the most recent occurring in 2019.

Upper Basin, 7.5 million acre·ft/year (293 m³/s) total

Colorado	51.75%*	3.86 million acre·ft/year (150.7 m ³ /s)
Utah	23.00%*	1.71 million acre·ft/year (67.0 m ³ /s)
Wyoming	14.00%*	1.04 million acre·ft/year (40.8 m ³ /s)
New Mexico	11.25%*	0.84 million acre·ft/year (32.8 m ³ /s)
Arizona	0.70%	0.05 million acre·ft/year (2.0 m ³ /s)

*Percentages with a star are a percentage of the total *after* Arizona's 0.05 million are deducted. Arizona's percentage is of the total.

Lower Basin, 7.5 million acre·ft/year (293 m³/s) total

California	58.70%	4.40 million acre·ft/year (172 m ³ /s)
Arizona	37.30%	2.80 million acre·ft/year (109 m ³ /s)
Nevada	4.00%	0.30 million acre·ft/year (12 m ³ /s)

2021 Creation of the “Colorado River Authority of Utah Act”

- Discussion and implementation of the Lake Powell Pipeline.
- Discussion of working with other states regarding water allocation to Utah.
- The Colorado River Authority led by 6 member board representing various parts of the state.

Populations of 7 States in Compact

California: 39,368,078

Arizona: 7,278,717

Colorado: 5,758,736

Utah: 3,205,958

Nevada: 3,080,156

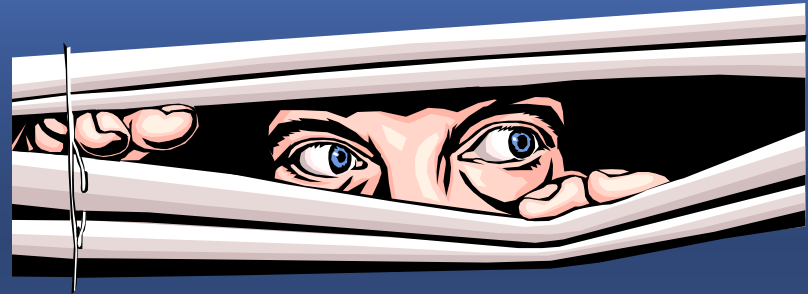
New Mexico: 2,096,829

Wyoming: 578,759

Utah Code §52-4-201, -204 & -205

Closed Meetings

- CAN A MEETING BE CLOSED TO THE PUBLIC? IF SO WHEN?
 - An open meeting can be closed for the following purposes:
 - A meeting is open to the public unless closed under § 52-4-204, -205 or -206
 - Discussing an individual's character, professional competence, or physical or mental health
 - Strategy sessions to discuss collective bargaining
 - Strategy sessions to discuss pending or reasonably imminent litigation



Closed Meetings (Cont.)

- An open meeting can be closed for the following purposes continued:
 - Discussions regarding security personnel, devices or systems
 - Investigative proceedings regarding allegations of criminal misconduct
 - Strategy sessions to discuss the purchase, exchange, lease or sale of water rights or water shares if public discussion would disclose the appraisal/estimated value of the property under consideration; or would prevent the transaction from being completed under the best possible terms

Closed Meetings (Cont.)

- An independent Legislative Ethics Commission or Legislative Ethics Committee review of ethics complaints
- A county legislative body discussing commercial information.
- Strategy sessions to discuss the purchase, exchange, lease or sale of real property
 - Public notice of the terms and public approval of sale required
 - Water rights shares under certain conditions

158 (f) a meeting of the Colorado River Authority of Utah if:

159 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
160 the Colorado River system; and

161 (ii) failing to close the meeting would:

162 (A) reveal the contents of a record classified as protected under Subsection
163 63G-2-305(82);

164 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
165 Colorado River system;

166 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
167 negotiate the best terms and conditions regarding the use of water in the Colorado River
168 system; or

169 (D) give an advantage to another state or to the federal government in negotiations
170 regarding the use of water in the Colorado River system.

A photograph of the Utah State Capitol building, a large neoclassical structure with a prominent dome and a portico supported by columns. The building is set against a blue sky with light clouds. In the foreground, there is a large green lawn where a few people are sitting. Pink cherry blossom branches are visible in the upper corners of the frame. A large, semi-transparent white circle is overlaid on the left side of the image, containing the text.

UTAH OPEN & PUBLIC MEETINGS ACT

- QUESTIONS?