

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2108

By: Pae and **Fugate** of the House

and

Howard of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public meetings; amending 25 O.S.
12 2021, Section 304, as amended by Section 1, Chapter
13 123, O.S.L. 2022 (25 O.S. Supp. 2022, Section 304),
14 which relates to definitions used in the Oklahoma
15 Open Meeting Act; providing a definition for public
16 health emergency; establishing requirements under
17 which a public body may conduct meetings and
18 executive sessions utilizing digital means; requiring
19 alternative means be used to make meetings available
20 to the public under certain conditions; exempting
21 governing bodies under certain conditions; clarifying
22 no charge to the public; permitting participation by
23 the public in meetings; prohibiting certain private
24 electronic communications; providing for
 codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. **AMENDATORY** 25 O.S. 2021, Section 304, as
amended by Section 1, Chapter 123, O.S.L. 2022 (25 O.S. Supp. 2022,
Section 304), is amended to read as follows:

1 Section 304. As used in the Oklahoma Open Meeting Act:

2 1. "Public body" means the governing bodies of all
3 municipalities located within this state, boards of county
4 commissioners of the counties in this state, boards of public and
5 higher education in this state and all boards, bureaus, commissions,
6 agencies, trusteeships, authorities, councils, committees, public
7 trusts or any entity created by a public trust including any
8 committee or subcommittee composed of any of the members of a public
9 trust or other legal entity receiving funds from the Rural Economic
10 Action Plan Fund as authorized by Section 2007 of Title 62 of the
11 Oklahoma Statutes, task forces or study groups in this state
12 supported in whole or in part by public funds or entrusted with the
13 expending of public funds, or administering public property, and
14 shall include all committees or subcommittees of any public body.
15 Public body shall not include the state judiciary, the Council on
16 Judicial Complaints when conducting, discussing, or deliberating any
17 matter relating to a complaint received or filed with the Council,
18 the Legislature, or administrative staffs of public bodies
19 including, but not limited to, faculty meetings and athletic staff
20 meetings of institutions of higher education when those staffs are
21 not meeting with the public body, or entry-year assistance
22 committees. Furthermore, public body shall not include the
23 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
24 of the Oklahoma Statutes, in Section 2 of this act, and in

1 subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes
2 or any school board meeting for the sole purpose of considering
3 recommendations of a multidisciplinary team and deciding the
4 placement of any child who is the subject of the recommendations.
5 Furthermore, public body shall not include meetings conducted by
6 stewards designated by the Oklahoma Horse Racing Commission pursuant
7 to Section 203.4 of Title 3A of the Oklahoma Statutes when the
8 stewards are officiating at races or otherwise enforcing rules of
9 the Commission. Furthermore, public body shall not include the
10 board of directors of a Federally Qualified Health Center;

11 2. "Meeting" means the conduct of business of a public body by
12 a majority of its members being personally together or, as
13 authorized by Section 307.1 of this title, together pursuant to a
14 videoconference. Meeting shall not include informal gatherings of a
15 majority of the members of the public body when no business of the
16 public body is discussed;

17 3. "Regularly scheduled meeting" means a meeting at which the
18 regular business of the public body is conducted;

19 4. "Special meeting" means any meeting of a public body other
20 than a regularly scheduled meeting or emergency meeting;

21 5. "Emergency meeting" means any meeting called for the purpose
22 of dealing with an emergency. For purposes of the Oklahoma Open
23 Meeting Act, an emergency is defined as a situation involving injury
24 to persons or injury and damage to public or personal property or

1 immediate financial loss when the time requirements for public
2 notice of a special meeting would make such procedure impractical
3 and increase the likelihood of injury or damage or immediate
4 financial loss;

5 6. "Continued or reconvened meeting" means a meeting which is
6 assembled for the purpose of finishing business appearing on an
7 agenda of a previous meeting. For the purposes of the Oklahoma Open
8 Meeting Act, only matters on the agenda of the previous meeting at
9 which the announcement of the continuance is made may be discussed
10 at a continued or reconvened meeting;

11 7. "Public health emergency" means a situation where the
12 circumstances lead state or local elected officials, as applicable
13 to this act, to determine a risk of death or significant harm to the
14 human population of the state or particular applicable political
15 subdivision. A locally declared state of emergency declared by a
16 mayor or chairman of a board of county commissioners shall not
17 continue for more than thirty (30) days with ratification of the
18 respective public body, unless such state of emergency is
19 concurrently declared by the Governor of the State of Oklahoma
20 covering the applicable political subdivision.

21 ~~7.~~ 8. "Videoconference" means a conference among members of a
22 public body remote from one another who are linked by interactive
23 telecommunication devices or technology and/or technology permitting
24 both visual and auditory communication between and among members of

1 the public body and/or between and among members of the public body
2 and members of the public. During any videoconference, both the
3 visual and auditory communications functions shall attempt to be
4 utilized; and

5 ~~8.~~ 9. "Teleconference" means a conference among members of a
6 public body remote from one another who are linked by
7 telecommunication devices and/or technology permitting auditory
8 communication between and among members of the public body and/or
9 between and among members of the public body and members of the
10 public.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 307.2 of Title 25, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Public bodies, unless specifically exempted, may conduct
15 meetings and executive sessions utilizing digital means subject to
16 the following requirements:

17 1. No public official may be counted as present if
18 participating utilizing digital means for more than one-fourth (1/4)
19 of regular or special meetings in a rolling one (1) year period.

20 2. A quorum of members must be physically present in the
21 regular meeting location of the public body.

22 3. Any member of a governing body participating in a meeting
23 utilizing electronic means shall be confirmed by audio or visual
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1 affirmation to the public to be the actual member of the governing
2 body and may only participate from a fixed location.

3 4. Documents provided digitally during a meeting utilizing
4 electronic means shall be made available in accordance with the
5 lawfully adopted policy of the governing board and open records
6 requirements.

7 5. Any governing body making a good faith effort to comply with
8 the provisions of this section shall be immune from liability for
9 any attorney's fees connected with litigation for a failure to
10 comply with this section.

11 6. Minutes shall be prepared in compliance with state and local
12 law as applicable to public meetings.

13 7. Notwithstanding the provisions of paragraph 1 of this
14 section, a governing body may hold a meeting utilizing digital means
15 without a quorum at the physical location during an emergency
16 meeting called for the purpose of dealing with the state of
17 emergency.

18 B. To the extent practicable, if a public body maintains a
19 website, has dedicated information technology employees, and has
20 immediate access to a high-speed internet connection, meetings held
21 without a physical meeting place open to the public shall be
22 streamed live on a website, made available by telephonic means, or
23 video of the meeting made available through an alternative website.
24 Video of such meetings shall be maintained by the public body and

1 available to the public for a period of at least seven (7) business
2 days after the meeting minutes become official as required by
3 Section 312 of Title 25 of the Oklahoma Statutes. Recordings
4 created under this subsection are subject to the retention
5 requirements included herein and are not subject to any other record
6 or retention statute. The provisions of the subsection shall not
7 apply if there exists, or if a governing body determines, the
8 implementation of this subsection creates a significant financial
9 burden.

10 C. Meetings held without a physical meeting place open to the
11 public shall be streamed or otherwise made available to the public
12 at no charge by utilizing digital means, the public body's website,
13 the internet, or other free subscription digital services or
14 applications.

15 D. The public may be allowed to participate in meetings held
16 without a physical meeting place open to the public to the extent
17 such participation is consistent with previously adopted statutes,
18 rules, or policy.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 315 of Title 25, unless there is
21 created a duplication in numbering, reads as follows:

22 No private electronic communications concerning public business
23 may occur during a public meeting amongst members of the governing
24 body.

1 SECTION 4. This act shall become effective November 1, 2023.

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3 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
4 02/22/2023 - DO PASS, As Amended and Coauthored.
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