

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2108

By: Pae

7 COMMITTEE SUBSTITUTE

8 An Act relating to public meetings; amending 25 O.S.  
9 2021, Section 304, as amended by Section 1, Chapter  
10 123, O.S.L. 2022 (25 O.S. Supp. 2022, Section 304),  
11 which relates to definitions used in the Oklahoma  
12 Open Meeting Act; providing a definition for public  
13 health emergency; establishing requirements under  
14 which a public body may conduct meetings and  
15 executive sessions utilizing digital means; requiring  
16 alternative means be used to make meetings available  
17 to the public under certain conditions; exempting  
18 governing bodies under certain conditions; clarifying  
19 no charge to the public; permitting participation by  
20 the public in meetings; prohibiting certain private  
21 electronic communications; providing for  
22 codification; and providing an effective date.

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

24 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:

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

1. "Public body" means the governing bodies of all  
municipalities located within this state, boards of county

1 commissioners of the counties in this state, boards of public and  
2 higher education in this state and all boards, bureaus, commissions,  
3 agencies, trusteeships, authorities, councils, committees, public  
4 trusts or any entity created by a public trust including any  
5 committee or subcommittee composed of any of the members of a public  
6 trust or other legal entity receiving funds from the Rural Economic  
7 Action Plan Fund as authorized by Section 2007 of Title 62 of the  
8 Oklahoma Statutes, task forces or study groups in this state  
9 supported in whole or in part by public funds or entrusted with the  
10 expending of public funds, or administering public property, and  
11 shall include all committees or subcommittees of any public body.  
12 Public body shall not include the state judiciary, the Council on  
13 Judicial Complaints when conducting, discussing, or deliberating any  
14 matter relating to a complaint received or filed with the Council,  
15 the Legislature, or administrative staffs of public bodies  
16 including, but not limited to, faculty meetings and athletic staff  
17 meetings of institutions of higher education when those staffs are  
18 not meeting with the public body, or entry-year assistance  
19 committees. Furthermore, public body shall not include the  
20 multidisciplinary teams provided for in Section 1-9-102 of Title 10A  
21 of the Oklahoma Statutes, in Section 2 of this act, and in  
22 subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes  
23 or any school board meeting for the sole purpose of considering  
24 recommendations of a multidisciplinary team and deciding the

1 placement of any child who is the subject of the recommendations.  
2 Furthermore, public body shall not include meetings conducted by  
3 stewards designated by the Oklahoma Horse Racing Commission pursuant  
4 to Section 203.4 of Title 3A of the Oklahoma Statutes when the  
5 stewards are officiating at races or otherwise enforcing rules of  
6 the Commission. Furthermore, public body shall not include the  
7 board of directors of a Federally Qualified Health Center;

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

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

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

18 5. "Emergency meeting" means any meeting called for the purpose  
19 of dealing with an emergency. For purposes of the Oklahoma Open  
20 Meeting Act, an emergency is defined as a situation involving injury  
21 to persons or injury and damage to public or personal property or  
22 immediate financial loss when the time requirements for public  
23 notice of a special meeting would make such procedure impractical  
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1 and increase the likelihood of injury or damage or immediate  
2 financial loss;

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

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

19 ~~7.~~ 8. "Videoconference" means a conference among members of a  
20 public body remote from one another who are linked by interactive  
21 telecommunication devices or technology and/or technology permitting  
22 both visual and auditory communication between and among members of  
23 the public body and/or between and among members of the public body  
24 and members of the public. During any videoconference, both the

1 visual and auditory communications functions shall attempt to be  
2 utilized; and

3 ~~8.~~ 9. "Teleconference" means a conference among members of a  
4 public body remote from one another who are linked by  
5 telecommunication devices and/or technology permitting auditory  
6 communication between and among members of the public body and/or  
7 between and among members of the public body and members of the  
8 public.

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

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

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

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

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

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

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

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

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

16 B. To the extent practicable, if a public body maintains a  
17 website, has dedicated information technology employees, and has  
18 immediate access to a high-speed internet connection, meetings held  
19 without a physical meeting place open to the public shall be  
20 streamed live on a website, made available by telephonic means, or  
21 video of the meeting made available through an alternative website.  
22 Video of such meetings shall be maintained by the public body and  
23 available to the public for a period of at least seven (7) business  
24 days after the meeting minutes become official as required by

1 Section 312 of Title 25 of the Oklahoma Statutes. Recordings  
2 created under this subsection are subject to the retention  
3 requirements included herein and are not subject to any other record  
4 or retention statute. The provisions of the subsection shall not  
5 apply if there exists, or if a governing body determines, the  
6 implementation of this subsection creates a significant financial  
7 burden.

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

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

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

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

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

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