An Act

ENROLLED SENATE
BILL NO. 661

By: Howard of the Senate

and

McCall of the House

An Act relating to the Oklahoma Open Meeting Act; amending 25 O.S. 2011, Sections 304, as amended by Section 3, Chapter 81, O.S.L. 2019, 306, 307.1, as amended by Section 1, Chapter 119, O.S.L. 2019 and 311, as last amended by Section 1, Chapter 376, O.S.L. 2019 (25 O.S. Supp. 2019, Sections 304, 307.1 and 311), which relate to open meetings; modifying definitions; modifying citation reference; requiring recording of certain public meetings; providing for meeting by teleconference or videoconference; prescribing conditions related thereto; prescribing requirements for certain meeting notices; prohibiting certain actions after release of meeting notices; authorizing certain actions; prescribing voting procedures; authorizing executive sessions by certain methods; prescribing procedures for conduct of executive sessions; providing exception for procedures related to meeting notices; and declaring an emergency.

SUBJECT: Oklahoma Open Meeting Act

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 304, as amended by Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp. 2019, 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 commissioners of the counties in this state, boards of public and higher education in this state and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts or any entity created by a public trust, including any committee or subcommittee composed of any of the members of a public trust or other legal entity receiving funds from the Rural Economic Action Plan Fund as authorized by Section 2007 of Title 62 of the Oklahoma Statutes, task forces or study groups in this state supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. Public body shall not include the state judiciary, the Council on Judicial Complaints when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council, the Legislature, or administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when those staffs are not meeting with the public body, or entry-year assistance committees. Furthermore, public body shall not include the multidisciplinary teams provided for in Section 1-9-102 of Title 10A of the Oklahoma Statutes and subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of a multidisciplinary team and deciding the placement of any child who is the subject of the recommendations. Furthermore, public body shall not include meetings conducted by stewards designated by the Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title 3A of the Oklahoma Statutes when the stewards are officiating at races or otherwise enforcing rules of the Commission;

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

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

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

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

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

7. "Videoconference" means a conference among members of a public body remote from one another who are linked by interactive telecommunication devices or technology and/or technology permitting both visual and auditory communication between and among members of the public body and/or between and among members of the public body and members of the public. During any videoconference, both the visual and auditory communications functions ~~of the device~~ shall attempt to be utilized~~. Whenever the term "teleconference" appears in any law in relation to a meeting of a public body, it shall be deemed to mean a videoconference as defined in this paragraph~~; and

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

SECTION 2. AMENDATORY 25 O.S. 2011, Section 306, is amended to read as follows:

Section 306. No informal gatherings or any electronic or telephonic communications, except teleconferences or

videoconferences as authorized by Section ~~3~~ 307.1 of this ~~act~~ Title, among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter.

SECTION 3. AMENDATORY 25 O.S. 2011, Section 307.1, as amended by Section 1, Chapter 119, O.S.L. 2019 (25 O.S. Supp. 2019, Section 307.1), is amended to read as follows:

Section 307.1. A. ~~A~~ Except as provided in subsections C and D of this section, a public body may hold meetings by videoconference where each member of the public body is visible and audible to each other and the public through a video monitor, subject to the following:

1. a. except as provided for in subparagraph b of this paragraph, no less than a quorum of the public body shall be present in person at the meeting site as posted on the meeting notice and agenda,

b. a virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of Section 3-145.3 of Title 70 of the Oklahoma Statutes shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, videoconference sites or any combination of such sites to achieve a quorum; and

c. each public meeting held by videoconference or teleconference shall be recorded either by written, electronic, or other means;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate if the meeting will include videoconferencing locations and shall state:

a. the location, address, and telephone number of each available videoconference site, and

b. the identity of each member of the public body and the specific site from which each member of the body shall be physically present and participating in the meeting;

3. After the meeting notice and agenda are prepared and posted, as required by law, no member of the public body shall be allowed to participate in the meeting from any location other than the specific location posted on the agenda in advance of the meeting;

4. In order to allow the public the maximum opportunity to attend and observe each public official carrying out the duties of the public official, a member or members of a public body desiring to participate in a meeting by videoconference shall participate in the videoconference from a site and room located within the district or political subdivision from which they are elected, appointed, or are sworn to represent;

5. Each site and room where a member of the public body is present for a meeting by videoconference shall be open and accessible to the public, and the public shall be allowed into that site and room. Public bodies may provide additional videoconference sites as a convenience to the public, but additional sites shall not be used to exclude or discourage public attendance at any videoconference site;

6. The public shall be allowed to participate and speak, as allowed by rule or policy set by the public body, in a meeting at the videoconference site in the same manner and to the same extent as the public is allowed to participate or speak at the site of the meeting;

7. Any materials shared electronically between members of the public body, before or during the videoconference, shall also be immediately available to the public in the same form and manner as shared with members of the public body; and

8. All votes occurring during any meeting conducted using videoconferencing shall occur and be recorded by roll call vote.

B. No public body shall conduct an executive session by videoconference.

C. Upon the effective date of this act and until November 15, 2020, or the Governor declaring the state of emergency to be

terminated, whichever date first occurs, the provisions of this subsection and subsection D shall operate as law in this state.

1. A public body may hold meetings by teleconference or videoconference if each member of the public body is audible or visible to each other and the public, subject to the following:

a. for a virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of the Oklahoma Statutes, the public body shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, teleconference, or videoconference or any combination of such sites to achieve a quorum, and

b. if the meeting is held using either teleconference or videoconference capabilities, and at any time the audio connection is disconnected, the meeting shall be stopped and reconvened once the audio connection is restored;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate if the meeting will include teleconferencing or videoconferencing and shall also state:

a. each public body member appearing remotely and the method of each member's remote appearance, and

b. the identity of the public body member or members who will be physically present at the meeting site, if any;

3. After the meeting notice and agenda are prepared and posted as required by law, public body members shall not be permitted to alter their method of attendance; provided, however, those members who were identified as appearing remotely may be permitted to physically appear at the meeting site, if any, for the meeting;

4. The public body shall be allowed to participate and speak, as allowed by rule or policy set by the public body, in a meeting which utilizes teleconference or videoconference in the same manner and to the same extent as the public is allowed to participate or

speak during a meeting where all public body members are physically present together at the meeting site;

5. Any materials shared electronically between members of the public body during a meeting utilizing teleconferencing or videoconferencing shall also be immediately available to the public in the same form as shared with the members of the public body; and

6. All votes occurring during any meeting utilizing teleconference or videoconference shall occur and be recorded by roll call votes.

D. Public bodies are permitted to conduct an executive session by teleconference or videoconference. For such executive sessions, no public body member is required to be physically present so long as each public body member is audible or visible to each other. The meeting notice and agenda prepared in advance of the meeting as required by law shall indicate if the executive session will include teleconferencing or videoconferencing and shall also state the identity of each public body member appearing remotely, the method of each member's remote appearance, and whether any member will be physically present at the meeting site, if any, for the executive session.

SECTION 4. AMENDATORY 25 O.S. 2011, Section 311, as last amended by Section 1, Chapter 376, O.S.L. 2019 (25 O.S. Supp. 2019, Section 311), is amended to read as follows:

Section 311. A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year;

2. All state public bodies, including, but not limited to, public trusts and other bodies with the state as beneficiary, shall give such notice to the Secretary of State;

3. All county public bodies including, but not limited to, public trusts and any other bodies with the county as beneficiary, shall give such notice to the county clerk of the county wherein they are principally located;

4. All municipal public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located;

5. All multicounty, regional, areawide or district public bodies including, but not limited to, district boards of education, shall give such notice to the county clerk of the county wherein they are principally located, or if no office exists, to the county clerk of the county or counties served by such public body;

6. All governing boards of state institutions of higher education, and committees and subcommittees thereof, shall give such notice to the Secretary of State. All other public bodies covered by the provisions of the Oklahoma Open Meeting Act which exist under the auspices of a state institution of higher education, but a majority of whose members are not members of the institution's governing board, shall give such notice to the county clerk of the county wherein the institution is principally located;

7. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of the register;

8. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to the Secretary of State or county clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change;

9. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, described in paragraph 1 of this subsection, all public bodies shall, at least twenty-four (24) hours prior to such regularly scheduled meetings, display

public notice of the meeting by at least one of the following methods:

a. by posting information that includes date, time, place and agenda for the meeting in prominent public view at the principal office of the public body or at the location of the meeting if no office exists, or

b. by posting on the public body's Internet website the date, time, place and agenda for the meeting in accordance with Section 3106.2 of Title 74 of the Oklahoma Statutes. Additionally, the public body shall offer and consistently maintain an email distribution system for distribution of such notice of a public meeting required by this subsection, and any person may request to be included without charge, and their request shall be accepted. The emailed notice of a public meeting required by this subsection shall include in the body of the email or as an attachment to the email the date, time, place and agenda for the meeting and it shall be sent no less than twenty-four (24) hours prior to the meeting. Additionally, except as provided in subparagraph c of this paragraph, the public body shall make the notice of a public meeting required by this subsection available to the public in the principal office of the public body or at the location of the meeting during normal business hours at least twenty-four (24) hours prior to the meeting, or

c. upon the effective date of this act and until November 15, 2020, or the Governor declaring the state of emergency to be terminated, whichever date first occurs, the public body shall not be required to make the notice of a public meeting available to the public in the principal office of the public body or at the location of the meeting during normal business hours at least twenty-four (24) hours prior to the meeting;

10. The twenty-four (24) hours required in paragraph 9 of this subsection shall exclude Saturdays, Sundays and holidays legally declared by the State of Oklahoma. The posting or distribution of a

notice of a public meeting as described in paragraph 9 of this subsection shall not preclude a public body from considering at its regularly scheduled meeting any new business. "New business", as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of the posting;

11. In the event any meeting is to be continued or reconvened, public notice of such action including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting;

12. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to the meetings. Such public notice of date, time and place shall be given in writing, in person or by telephonic means to the Secretary of State or to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of this subsection. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars ($18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of the meeting, setting forth thereon the date, time, place and agenda for the meeting. Only matters appearing on the posted agenda may be considered at the special meeting. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of the meeting if no office exists. Twenty-four (24) hours prior public posting shall exclude Saturdays, Sundays and holidays legally declared by the State of Oklahoma. In lieu of the public posting requirements of this paragraph, a public body may elect to follow the requirements found in subparagraph b of paragraph 9 of this subsection, provided that forty-eight-hour

notice is required for special meetings and that the forty-eight-hour requirement shall exclude Saturdays, Sundays and holidays legally declared by the State of Oklahoma; and

13. In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.

2. If a public body proposes to conduct an executive session, the agenda shall:

a. contain sufficient information for the public to ascertain that an executive session will be proposed,

b. identify the items of business and purposes of the executive session, and

c. state specifically the provision of Section 307 of this title authorizing the executive session.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 17th day of March, 2020.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of March, 2020.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 17th day of March, 2020, at 6:42 o'clock p. M.

By: Jamie Curry

Approved by the Governor of the State of Oklahoma this 18th day of March, 2020, at 9:38 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 18th day of March, 2020, at 10:13 o'clock A. M.

By: Nicole Rogers