House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 88

HOUSE BILL 2209

AN ACT

AMENDING SECTIONS 38-431.01, 38-431.02 AND 41-1006, ARIZONA REVISED STATUTES; RELATING TO PUBLIC NOTICES OF MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-431.01, Arizona Revised Statutes, is amended to read:

38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, such minutes or recording shall include, but not be limited to:

1. The date, time and place of the meeting.

2. The members of the public body recorded as either present or absent.

3. A general description of the matters considered.

4. An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.

E. A public body of a city or town with a population of more than two thousand five hundred persons shall:

1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its ~~internet~~ website, if applicable, either:

(a) A statement describing the legal actions taken by the public body of the city or town during the meeting.

(b) Any recording of the meeting.

2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its ~~internet~~ website, if applicable, except as otherwise specifically provided by this article.

3. Within ten working days after a subcommittee or advisory committee meeting, post on its ~~internet~~ website, if applicable, either:

(a) A statement describing legal action, if any.

(b) A recording of the meeting.

F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

G. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall ~~distribute~~ CONSPICUOUSLY POST open meeting law materials prepared and approved by the attorney general ON THEIR WEBSITE. ~~to~~ A person elected or appointed to a public body SHALL REVIEW THE OPEN MEETING LAW MATERIALS AT LEAST ONE DAY before the day that person takes office.

H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

I. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

J. Any posting required by subsection E of this section must remain on the applicable ~~internet~~ website for at least one year after the date of the posting.

Sec. 2. Section 38-431.02, Arizona Revised Statutes, is amended to read:

38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

1. The public bodies of this state, including governing bodies of charter schools, shall: ~~file~~

(a) CONSPICUOUSLY POST a statement ~~with the secretary of state~~ ON THEIR WEBSITE stating where all public notices of their meetings will be posted, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, and shall give ~~such~~ additional public notice as is reasonable and practicable as to all meetings.

(b) POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS. A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE POSTING OF PUBLIC NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY PREVENTS THE USE OF ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING OF THE MEETING FOR WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES WITH ALL OTHER PUBLIC NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

2. The public bodies of the counties~~,~~ AND school districts ~~and other special districts~~ shall: ~~file~~

(a) CONSPICUOUSLY POST a statement ~~with the clerk of the board of supervisors~~ ON THEIR WEBSITE stating where all public notices of their meetings will be posted, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, and shall give ~~such~~ additional public notice as is reasonable and practicable as to all meetings.

(b) POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS. A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE POSTING OF PUBLIC NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY PREVENTS THE USE OF ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING OF THE MEETING FOR WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES WITH ALL OTHER PUBLIC NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

3. SPECIAL DISTRICTS THAT ARE FORMED PURSUANT TO TITLE 48:

(a) MAY CONSPICUOUSLY POST A STATEMENT ON THEIR WEBSITE STATING WHERE ALL PUBLIC NOTICES OF THEIR MEETINGS WILL BE POSTED, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS.

(b) MAY POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS. A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE POSTING OF PUBLIC NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY PREVENTS THE USE OF ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING OF THE MEETING FOR WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES WITH ALL OTHER PUBLIC NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

(c) IF A STATEMENT OR NOTICE IS NOT POSTED PURSUANT TO SUBDIVISION (a) OR (b) OF THIS PARAGRAPH, SHALL FILE A STATEMENT WITH THE CLERK OF THE BOARD OF SUPERVISORS STATING WHERE ALL PUBLIC NOTICES OF THEIR MEETINGS WILL BE POSTED AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS.

~~3.~~ 4. The public bodies of the cities and towns shall: ~~file~~

(a) CONSPICUOUSLY POST a statement ~~with the city clerk or mayor's office~~ ON THEIR WEBSITE OR ON A WEBSITE OF AN ASSOCIATION OF CITIES AND TOWNS stating where all public notices of their meetings will be posted, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, and shall give ~~such~~ additional public notice as is reasonable and practicable as to all meetings.

~~4.~~ (b) ~~The public bodies of the cities and towns that have an internet website shall~~ Post all public MEETING notices ~~of their meetings~~ on their ~~internet~~ website OR ON A WEBSITE OF AN ASSOCIATION OF CITIES AND TOWNS and ~~shall~~ give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a ~~city or town~~ website or that temporarily or permanently prevents the ~~usage~~ USE of all or part of the website does not

preclude the holding of the meeting for which the notice was posted if THE PUBLIC BODY COMPLIES WITH all other public notice requirements required by this section ~~are complied with~~.

B. If an executive session ~~will be held, the notice shall be given~~ IS SCHEDULED, A NOTICE OF THE EXECUTIVE SESSION SHALL STATE THE PROVISION OF LAW AUTHORIZING THE EXECUTIVE SESSION, AND THE NOTICE SHALL BE PROVIDED to the:

1. Members of the public body. ~~, and to the~~

2. General public~~, stating the specific provision of law authorizing the executive session~~.

C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any ~~internet~~ website posting, but excludes Sundays and other holidays prescribed in section 1-301.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any ~~internet~~ website posting, but excludes Sundays and other holidays prescribed in section 1-301.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.

2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

Sec. 3. Section 41-1006, Arizona Revised Statutes, is amended to read:

41-1006. <u>Employees providing agency assistance; identification and publication</u>

Each state agency ~~that employs more than one hundred persons~~ shall publish annually in the register, in the state directory and in a telephone directory for Maricopa county the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency.

APPROVED BY THE GOVERNOR APRIL 19, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2010.

Passed the House March 22, 2010

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 12, 2010

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 2010

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 19th day of

April

at 5:00 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 20th day of April, 2010

at 10:21 o'clock a M.

Secretary of State

H.B. 2209