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**HOUSE BILL 1329**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Wicks, Pollet, Taylor, Ryu, Wylie, Shewmake, Bateman, Lovick, Fey, Morgan, Lekanoff, Harris-Talley, and Peterson

Read first time 01/20/21. Referred to Committee on Local Government.

1 AN ACT Relating to public meeting accessibility and  
2 participation; amending RCW 42.30.010, 42.30.020, 42.30.030,  
3 42.30.070, 42.30.110, and 42.30.900; adding new sections to chapter  
4 42.30 RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of this act to urge  
7 governing bodies, and particularly governing bodies formed under  
8 chapter 36.57A or 81.112 RCW, to move to online meetings to allow for  
9 more public participation opportunities and more diverse public  
10 comment. During the COVID-19 outbreak in the United States and  
11 Washington state, there was a gubernatorial proclamation authorizing  
12 governing bodies to utilize remote meetings. It was found that  
13 meetings conducted via remote access were successful in reigniting  
14 the spirit of RCW 42.30.030 thanks to the courage, ingenuity, and  
15 integrity of many public servants.

16 Therefore, the legislature finds that, unless impracticable, all  
17 meetings must have remote access, and may if necessary have an in-  
18 person component, both for increased accessibility for all  
19 Washingtonians and especially disabled persons; but also to limit  
20 greenhouse gas emissions as per RCW 70A.45.005 and 70A.05.900. The  
21 legislature further finds that Washington should continue to be a

1 national and international leader on energy conservation and  
2 environmental stewardship by recognizing travel to and from public  
3 meetings represents a significant source of emissions, and that  
4 reducing the need for such travel is achievable, cost-effective, and  
5 innovative in emission reduction.

6 **Sec. 2.** RCW 42.30.010 and 1971 ex.s. c 250 s 1 are each amended  
7 to read as follows:

8 The legislature finds and declares that all public commissions,  
9 boards, councils, committees, subcommittees, departments, divisions,  
10 offices, and all other public agencies of this state and subdivisions  
11 thereof exist to aid in the conduct of the people's business. It is  
12 the intent of this chapter that their actions be taken openly and  
13 that their deliberations be conducted openly.

14 The people of this state do not yield their sovereignty to the  
15 agencies which serve them. The people, in delegating authority, do  
16 not give their public servants the right to decide what is good for  
17 the people to know and what is not good for them to know. The people  
18 insist on remaining informed and informing the people's public  
19 servants of their views before significant final actions are taken so  
20 that they may retain control over the instruments they have created.  
21 For these reasons, even when not required by law, public agencies are  
22 encouraged to incorporate and accept public comment at all stages of  
23 their decision-making process.

24 **Sec. 3.** RCW 42.30.020 and 1985 c 366 s 1 are each amended to  
25 read as follows:

26 As used in this chapter unless the context indicates otherwise:

27 (1) "Public agency" means:

28 (a) Any state board, commission, committee, department,  
29 educational institution, or other state agency which is created by or  
30 pursuant to statute, other than courts and the legislature;

31 (b) Any county, city, school district, special purpose district,  
32 or other municipal corporation or political subdivision of the state  
33 of Washington;

34 (c) Any subagency of a public agency which is created by or  
35 pursuant to statute, ordinance, or other legislative act, including  
36 but not limited to planning commissions, library or park boards,  
37 commissions, and agencies;

1 (d) Any policy group whose membership includes representatives of  
2 publicly owned utilities formed by or pursuant to the laws of this  
3 state when meeting together as or on behalf of participants who have  
4 contracted for the output of generating plants being planned or built  
5 by an operating agency.

6 (2) "Local government" means any county, city, school district,  
7 special purpose district, transit agency, or other municipal  
8 corporation or political subdivision of the state of Washington.

9 (3) "Governing body" means the multimember board, commission,  
10 committee, council, or other policy or rule-making body of a public  
11 agency, or any committee thereof when the committee (~~acts~~) takes  
12 action on behalf of the governing body, conducts hearings, or takes  
13 testimony or public comment.

14 (~~(3)~~) (4) "Action" means the transaction of the official  
15 business of a public agency by a governing body including but not  
16 limited to receipt of public testimony, deliberations, discussions,  
17 considerations, reviews, evaluations, and final actions. "Final  
18 action" means a collective positive or negative decision, or an  
19 actual vote by a majority of the members of a governing body when  
20 sitting as a body or entity, upon a motion, proposal, resolution,  
21 order, or ordinance.

22 (~~(4)~~) (5) "Meeting" means meetings at which action is taken.

23 (6) "Remote meeting" means a meeting using teleconferencing or  
24 internet-based meeting platforms.

25 **Sec. 4.** RCW 42.30.030 and 1971 ex.s. c 250 s 3 are each amended  
26 to read as follows:

27 (1) All meetings of the governing body of a public agency shall  
28 be open and public and all persons shall be permitted to attend any  
29 meeting of the governing body of a public agency, except as otherwise  
30 provided in this chapter.

31 (2) All meetings of the governing body of a local government  
32 shall provide for public attendance through, at a minimum, real-time  
33 telephonic, electronic, internet, or other readily available means of  
34 remote access that do not require an additional cost to access the  
35 meeting unless:

36 (a) Doing so would be impracticable because of: (i) A temporary  
37 equipment failure; (ii) a lack of staff; or (iii) another reason that  
38 renders such action unfeasible;

1 (b) If compliance would require a cost of more than one percent  
2 of the local government's annual budget; or

3 (c) The local government employs fewer than 10 full-time  
4 equivalent employees.

5 (3) A governing body of a local government need not meet in-  
6 person if remote access public attendance under subsection (2) of  
7 this section is offered. If the governing body of the local  
8 government is meeting in-person, then the governing body must also  
9 offer in-person public attendance, unless the physical attendance by  
10 some or all members of the public is limited due to a declared  
11 emergency.

12 NEW SECTION. Sec. 5. A new section is added to chapter 42.30  
13 RCW to read as follows:

14 (1)(a) A local government must make a video recording of all  
15 meetings of the governing body available online for a minimum of six  
16 months, unless:

17 (i) Doing so would be impracticable because of: (A) A temporary  
18 equipment failure; (B) a lack of staff; or (C) another reason that  
19 renders such action unfeasible; or

20 (ii) If compliance would require a cost of more than one percent  
21 of the local government's annual budget.

22 (b) If a video recording would be impracticable, then a local  
23 government may instead make an audio recording of all meetings of the  
24 governing body available online for a minimum of six months.

25 (2) This section does not apply to a local government if it does  
26 not have a website or if it employs fewer than 10 full-time  
27 equivalent employees.

28 (3) The recording requirements of this section do not apply to  
29 executive sessions held under RCW 42.30.110.

30 (4) Failure to post a meeting recording in accordance with this  
31 section does not provide a basis for awarding attorneys' fees under  
32 RCW 42.30.120 or commencing an action for mandamus or injunction  
33 under RCW 42.30.130.

34 (5) This section does not alter a local government's  
35 recordkeeping requirements under chapter 42.56 RCW.

36 **Sec. 6.** RCW 42.30.070 and 1983 c 155 s 2 are each amended to  
37 read as follows:

1       The governing body of a public agency shall provide the time for  
2 holding regular meetings by ordinance, resolution, bylaws, or by  
3 whatever other rule is required for the conduct of business by that  
4 body. Unless otherwise provided for in the act under which the public  
5 agency was formed, meetings of the governing body need not be held  
6 within the boundaries of the territory over which the public agency  
7 exercises jurisdiction and may be held as a remote meeting. If at any  
8 time any regular meeting falls on a holiday, such regular meeting  
9 shall be held on the next business day. If, by reason of fire, flood,  
10 earthquake, or other emergency, there is a need for expedited action  
11 by a governing body to meet the emergency, the presiding officer of  
12 the governing body may provide for a meeting site other than the  
13 regular meeting site and the notice requirements of this chapter  
14 shall be suspended during such emergency. It shall not be a violation  
15 of the requirements of this chapter for a majority of the members of  
16 a governing body to travel together or gather for purposes other than  
17 a regular meeting or a special meeting as these terms are used in  
18 this chapter: PROVIDED, That they take no action as defined in this  
19 chapter.

20       **Sec. 7.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to  
21 read as follows:

22       (1) Nothing contained in this chapter may be construed to prevent  
23 a governing body from holding an executive session during a regular  
24 or special meeting:

25       (a) (i) To consider matters affecting national security;

26       (ii) To consider, if in compliance with any required data  
27 security breach disclosure under RCW 19.255.010 and 42.56.590, and  
28 with legal counsel available, information regarding the  
29 infrastructure and security of computer and telecommunications  
30 networks, security and service recovery plans, security risk  
31 assessments and security test results to the extent that they  
32 identify specific system vulnerabilities, and other information that  
33 if made public may increase the risk to the confidentiality,  
34 integrity, or availability of agency security or to information  
35 technology infrastructure or assets;

36       (b) To consider the selection of a site or the acquisition of  
37 real estate by lease or purchase when public knowledge regarding such  
38 consideration would cause a likelihood of increased price;

1 (c) To consider the minimum price at which real estate will be  
2 offered for sale or lease when public knowledge regarding such  
3 consideration would cause a likelihood of decreased price. However,  
4 final action selling or leasing public property shall be taken in a  
5 meeting open to the public;

6 (d) To review negotiations on the performance of publicly bid  
7 contracts when public knowledge regarding such consideration would  
8 cause a likelihood of increased costs;

9 (e) To consider, in the case of an export trading company,  
10 financial and commercial information supplied by private persons to  
11 the export trading company;

12 (f) To receive and evaluate complaints or charges brought against  
13 a public officer or employee. However, upon the request of such  
14 officer or employee, a public hearing or a meeting open to the public  
15 shall be conducted upon such complaint or charge;

16 (g) To evaluate the qualifications of an applicant for public  
17 employment or to review the performance of a public employee.  
18 However, subject to RCW 42.30.140(4), discussion by a governing body  
19 of salaries, wages, and other conditions of employment to be  
20 generally applied within the agency shall occur in a meeting open to  
21 the public, and when a governing body elects to take final action  
22 hiring, setting the salary of an individual employee or class of  
23 employees, or discharging or disciplining an employee, that action  
24 shall be taken in a meeting open to the public;

25 (h) To evaluate the qualifications of a candidate for appointment  
26 to elective office. However, any interview of such candidate and  
27 final action appointing a candidate to elective office shall be in a  
28 meeting open to the public;

29 (i) To discuss with legal counsel representing the agency matters  
30 relating to agency enforcement actions, or to discuss with legal  
31 counsel representing the agency litigation or potential litigation to  
32 which the agency, the governing body, or a member acting in an  
33 official capacity is, or is likely to become, a party, when public  
34 knowledge regarding the discussion is likely to result in an adverse  
35 legal or financial consequence to the agency.

36 This subsection (1)(i) does not permit a governing body to hold  
37 an executive session solely because an attorney representing the  
38 agency is present. For purposes of this subsection (1)(i), "potential  
39 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)  
40 concerning:

1 (i) Litigation that has been specifically threatened to which the  
2 agency, the governing body, or a member acting in an official  
3 capacity is, or is likely to become, a party;

4 (ii) Litigation that the agency reasonably believes may be  
5 commenced by or against the agency, the governing body, or a member  
6 acting in an official capacity; or

7 (iii) Litigation or legal risks of a proposed action or current  
8 practice that the agency has identified when public discussion of the  
9 litigation or legal risks is likely to result in an adverse legal or  
10 financial consequence to the agency;

11 (j) To consider, in the case of the state library commission or  
12 its advisory bodies, western library network prices, products,  
13 equipment, and services, when such discussion would be likely to  
14 adversely affect the network's ability to conduct business in a  
15 competitive economic climate. However, final action on these matters  
16 shall be taken in a meeting open to the public;

17 (k) To consider, in the case of the state investment board,  
18 financial and commercial information when the information relates to  
19 the investment of public trust or retirement funds and when public  
20 knowledge regarding the discussion would result in loss to such funds  
21 or in private loss to the providers of this information;

22 (l) To consider proprietary or confidential nonpublished  
23 information related to the development, acquisition, or  
24 implementation of state purchased health care services as provided in  
25 RCW 41.05.026;

26 (m) To consider in the case of the life sciences discovery fund  
27 authority, the substance of grant applications and grant awards when  
28 public knowledge regarding the discussion would reasonably be  
29 expected to result in private loss to the providers of this  
30 information;

31 (n) To consider in the case of a health sciences and services  
32 authority, the substance of grant applications and grant awards when  
33 public knowledge regarding the discussion would reasonably be  
34 expected to result in private loss to the providers of this  
35 information;

36 (o) To consider information regarding staff privileges or quality  
37 improvement committees under RCW 70.41.205.

38 (2) Before convening in executive session, the presiding officer  
39 of a governing body shall publicly announce the purpose for excluding  
40 the public from the meeting place, and the time when the executive

1 session will be concluded. The executive session may be extended to a  
2 stated later time by announcement of the presiding officer. The  
3 announced purpose of excluding the public must be entered into the  
4 minutes of the meeting required by RCW 42.30.035.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 42.30  
6 RCW to read as follows:

7 (1) Prior to taking a final action other than the approval of  
8 minutes or an agenda, adjourning a meeting, taking action on a  
9 procedural motion, or taking any similar action, a governing body  
10 must accept public comment on the motion, proposal, resolution,  
11 order, or ordinance upon which the final action will be taken. This  
12 public comment may be taken at any time prior to the final action and  
13 need not occur immediately prior to the final action. If public  
14 comment has not yet occurred on a motion, proposal, resolution,  
15 order, or ordinance, then for the purposes of this section, the  
16 adoption of an amendment to the motion, proposal, resolution, order,  
17 or ordinance before final passage is not a final action.

18 (2) Public comment may be accepted orally, through email, or  
19 both, at the discretion of the governing body. If public comment is  
20 accepted orally, it must be accepted from those accessing the meeting  
21 through real-time telephonic, electronic, internet, or other means of  
22 remote access as well as from those present in person. Any public  
23 comment accepted through email must be posted to a website  
24 established or designated by the governing body.

25 (3) Nothing in this section prevents a governing body from  
26 allowing public comment on items on which final action is not  
27 proposed to be taken, or on items not on the meeting agenda.

28 (4) This section does not apply to a committee of the governing  
29 body.

30 (5) Nothing in this section diminishes the authority of governing  
31 bodies to deal with interruptions under RCW 42.30.050, to limit the  
32 ability of the governing body to put reasonable limitations on how  
33 public comment is accepted, or to require a governing body to accept  
34 public comment that renders orderly conduct of the meeting  
35 unfeasible.

36 **Sec. 9.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each amended  
37 to read as follows:

1        This chapter may be known and cited as the (~~"Open—Public~~  
2 ~~Meetings Act of 1971".~~) Washington state open public meetings act or  
3 OPMA.

4        NEW SECTION.    **Sec. 10.**    This act may be known and cited as the  
5 Heather "Newsbrooke" Brooke, Ph.D. act.

--- **END** ---