

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1329

Chapter 115, Laws of 2022

67th Legislature
2022 Regular Session

OPEN PUBLIC MEETINGS—VARIOUS PROVISIONS

EFFECTIVE DATE: June 9, 2022—Except for sections 5 through 11, which take effect March 24, 2022.

Passed by the House March 7, 2022
Yeas 87 Nays 11

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2022
Yeas 47 Nays 0

DENNY HECK

President of the Senate

Approved March 24, 2022 8:34 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1329** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 24, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1329

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Local Government (originally sponsored by Representatives Wicks, Pollet, Taylor, Ryu, Wylie, Shewmake, Bateman, Lovick, Fey, Morgan, Lekanoff, Harris-Talley, and Peterson)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to public meeting accessibility and
2 participation; amending RCW 42.30.010, 42.30.030, 42.30.040,
3 42.30.050, 42.30.070, 42.30.077, 42.30.080, 42.30.090, 42.30.110, and
4 42.30.900; adding new sections to chapter 42.30 RCW; creating a new
5 section; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds and declares that,
8 due to technological advances since the 1971 adoption of the open
9 public meetings act, elected officials no longer conduct the public's
10 business solely at in-person meetings, but can and do utilize
11 telephonic and other electronic methods to efficiently conduct the
12 business of state and local government remotely. Further, limitations
13 on public gatherings required as the result of a disaster or
14 emergency, for example, to assist in preventing the spread of
15 infectious diseases, may affirmatively necessitate the use of
16 technology and the avoidance of in-person attendance at public
17 meetings for the conduct of governmental business. It is the policy
18 of the state that a governing body's actions, including
19 deliberations, shall be taken and conducted in the open. When the
20 public cannot observe and participate in person, it may limit
21 participation in democracy. Therefore, this act shall be construed in

1 favor of ensuring access by the public to observe elected officials
2 when they meet pursuant to this act. It is the intent of this act to
3 modernize and update the open public meetings act emergency
4 procedures to reflect technological advances, while maintaining the
5 act's public policy that governing body's actions and deliberations
6 be taken and conducted openly while balancing public safety in
7 emergency conditions. Governing bodies are encouraged to adopt
8 resolutions or ordinances establishing where and how meetings will be
9 held in the event of an emergency, in order to allow the public to
10 more easily learn about and observe public agency action in an
11 emergent situation.

12 The legislature further finds people participating in their
13 government, especially through public comment, is an essential part
14 of developing public policy. The legislature finds that there are
15 numerous developing technologies that can be used to facilitate
16 public comment, especially for those with disabilities, underserved
17 communities, and those who face time or distance challenges when
18 traveling to public meetings. Therefore, the legislature intends to
19 encourage public agencies to make use of remote access tools as fully
20 as practicable to encourage public engagement and better serve their
21 communities.

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

24 The legislature finds and declares that all public commissions,
25 boards, councils, committees, subcommittees, departments, divisions,
26 offices, and all other public agencies of this state and subdivisions
27 thereof exist to aid in the conduct of the people's business. It is
28 the intent of this chapter that their actions be taken openly and
29 that their deliberations be conducted openly.

30 The people of this state do not yield their sovereignty to the
31 agencies which serve them. The people, in delegating authority, do
32 not give their public servants the right to decide what is good for
33 the people to know and what is not good for them to know. The people
34 insist on remaining informed and informing the people's public
35 servants of their views so that they may retain control over the
36 instruments they have created. For these reasons, even when not
37 required by law, public agencies are encouraged to incorporate and
38 accept public comment during their decision-making process.

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

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

7 (2) Public agencies are encouraged to provide for the increased
8 ability of the public to observe and participate in the meetings of
9 governing bodies through real-time telephonic, electronic, internet,
10 or other readily available means of remote access that do not require
11 an additional cost to access the meeting.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.30
13 RCW to read as follows:

14 (1) Public agencies are encouraged to make an audio or video
15 recording of, or to provide an online streaming option for, all
16 regular meetings of its governing body, and to make recordings of
17 these meetings available online for a minimum of six months.

18 (2) This section does not alter a local government's
19 recordkeeping requirements under chapter 42.56 RCW.

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

22 (1) If, after the declaration of an emergency by a local or state
23 government or agency, or by the federal government, a public agency
24 determines that it cannot hold a meeting of the governing body with
25 members or public attendance in person with reasonable safety because
26 of the emergency, the public agency may:

27 (a) Hold a remote meeting of the governing body without a
28 physical location; or

29 (b) Hold a meeting of the governing body at which the physical
30 attendance by some or all members of the public is limited due to a
31 declared emergency.

32 (2) During a remote meeting, members of the governing body may
33 appear or attend by phone or by other electronic means that allows
34 real-time verbal communication without being in the same physical
35 location. For a remote meeting or a meeting at which the physical
36 attendance by some or all members of the public is limited due to a
37 declared emergency, the public agency must provide an option for the
38 public to listen to the proceedings telephonically or by using a

1 readily available alternative in real-time that does not require any
2 additional cost for participation. Free readily available options
3 include, but are not limited to, broadcast by the public agency on a
4 locally available cable television station that is available
5 throughout the jurisdiction or other electronic, internet, or other
6 means of remote access that does not require any additional cost for
7 access to the program. The public agency may also allow the other
8 electronic means of remote access.

9 (3) No action may be taken at a remote meeting or a meeting at
10 which the physical attendance by some or all members of the public is
11 limited due to a declared emergency if the public agency has not
12 provided an option for the public to listen to proceedings pursuant
13 to subsection (2) of this section, except for an executive session as
14 authorized in this chapter.

15 (4) Notice of a remote meeting without a physical location or a
16 meeting at which the physical attendance by some or all members of
17 the public is limited due to a declared emergency must be provided in
18 accordance with this chapter and must include instructions on how the
19 public may listen live to proceedings and on how the public may
20 access any other electronic means of remote access offered by the
21 public agency.

22 (5) A remote meeting or a meeting at which the physical
23 attendance by some or all members of the public is limited due to a
24 declared emergency that is held under the provisions of this section
25 shall be considered open and public in compliance with the
26 requirements of this chapter. Nothing in this section alters the
27 ability of public agencies to take action in response to an emergency
28 as provided for in RCW 42.30.070, or to have members of a governing
29 body participate in a meeting remotely with no declared emergency.

30 (6) Notwithstanding any other provision in this section, any
31 governing body of a public agency which held some of its regular
32 meetings remotely prior to March 1, 2020, may continue to hold some
33 of its regular meetings remotely with no declared emergency so long
34 as the public agency provides an option for the public to listen to
35 the proceedings pursuant to subsection (2) of this section.

36 **Sec. 6.** RCW 42.30.040 and 2012 c 117 s 124 are each amended to
37 read as follows:

38 A member of the public shall not be required, as a condition to
39 attendance at a meeting of a governing body, to register his or her

1 name and other information, to complete a questionnaire, or otherwise
2 to fulfill any condition precedent to his or her attendance. This
3 section does not prohibit any generally applicable conditions
4 determined by the governing body to be reasonably necessary to
5 protect the public health or safety, or to protect against
6 interruption of the meeting, including a meeting at which the
7 physical attendance by some or all members of the public is limited
8 due to a declared emergency.

9 **Sec. 7.** RCW 42.30.050 and 1971 ex.s. c 250 s 5 are each amended
10 to read as follows:

11 In the event that any meeting is interrupted by a group or groups
12 of persons so as to render the orderly conduct of such meeting
13 unfeasible and order cannot be restored by the removal of individuals
14 who are interrupting the meeting, the members of the governing body
15 conducting the meeting may order the meeting room cleared and
16 continue in session or may adjourn the meeting and reconvene at
17 another location selected by majority vote of the members. In such a
18 session, final disposition may be taken only on matters appearing on
19 the agenda. Representatives of the press or other news media, except
20 those participating in the disturbance, shall be allowed to attend
21 any session held pursuant to this section. Nothing in this section
22 shall prohibit the governing body from establishing a procedure for
23 readmitting an individual or individuals not responsible for
24 disturbing the orderly conduct of the meeting. Nothing in this
25 section prohibits the governing body from stopping people from
26 speaking to the governing body when not recognized by the governing
27 body to speak.

28 **Sec. 8.** RCW 42.30.070 and 1983 c 155 s 2 are each amended to
29 read as follows:

30 The governing body of a public agency shall provide the time for
31 holding regular meetings by ordinance, resolution, bylaws, or by
32 whatever other rule is required for the conduct of business by that
33 body. Unless otherwise provided for in the act under which the public
34 agency was formed, meetings of the governing body need not be held
35 within the boundaries of the territory over which the public agency
36 exercises jurisdiction. If at any time any regular meeting falls on a
37 holiday, such regular meeting shall be held on the next business day.
38 If, by reason of fire, flood, earthquake, or other emergency, there

1 is a need for expedited action by a governing body to meet the
2 emergency, the presiding officer of the governing body may provide
3 for a meeting site other than the regular meeting site, for a remote
4 meeting without a physical location, or for a meeting at which the
5 physical attendance by some or all members of the public is limited
6 due to a declared emergency, and the notice requirements of this
7 chapter shall be suspended during such emergency. It shall not be a
8 violation of the requirements of this chapter for a majority of the
9 members of a governing body to travel together or gather for purposes
10 other than a regular meeting or a special meeting as these terms are
11 used in this chapter: PROVIDED, That they take no action as defined
12 in this chapter.

13 **Sec. 9.** RCW 42.30.077 and 2014 c 61 s 2 are each amended to read
14 as follows:

15 (1) Public agencies with governing bodies must make the agenda of
16 each regular meeting of the governing body available online no later
17 than (~~twenty-four~~) 24 hours in advance of the published start time
18 of the meeting. An agency subject to provisions of this section (~~is~~
19 not required to post an agenda if it does not have a website or if it
20 employs fewer than ten full-time equivalent employees)) may share a
21 website with, or have its website hosted by, another public agency to
22 post meeting agendas, minutes, budgets, contact information, and
23 other records, including any resolution or ordinance adopted by the
24 agency establishing where and how the public agency will meet in the
25 event of an emergency. Nothing in this section prohibits subsequent
26 modifications to agendas nor invalidates any otherwise legal action
27 taken at a meeting where the agenda was not posted in accordance with
28 this section. Nothing in this section modifies notice requirements or
29 shall be construed as establishing that a public body or agency's
30 online posting of an agenda as required by this section is sufficient
31 notice to satisfy public notice requirements established under other
32 laws. Failure to post an agenda in accordance with this section shall
33 not provide a basis for awarding attorney fees under RCW 42.30.120 or
34 commencing an action for mandamus or injunction under RCW 42.30.130.

35 (2) A special purpose district, city, or town subject to the
36 provisions of this section is not required to post an agenda online
37 if the district, city, or town:

38 (a) Has an aggregate valuation of the property subject to
39 taxation by the district, city, or town of less than \$400,000,000, as

1 placed on the last completed and balanced tax rolls of the county
2 preceding the date of the most recent tax levy;

3 (b) Has a population within its jurisdiction of under 3,000
4 persons; and

5 (c) Provides confirmation to the state auditor at the time it
6 files its annual reports under RCW 43.09.230 that the cost of posting
7 notices on a website of its own, a shared website, or on the website
8 of the county in which the largest portion of the district's, city's,
9 or town's population resides, would exceed one-tenth of one percent
10 of the district's, city's, or town's budget.

11 **Sec. 10.** RCW 42.30.080 and 2012 c 188 s 1 are each amended to
12 read as follows:

13 (1) A special meeting may be called at any time by the presiding
14 officer of the governing body of a public agency or by a majority of
15 the members of the governing body by delivering written notice
16 personally, by mail, by fax, or by ~~((electronic mail))~~ email to each
17 member of the governing body. Written notice shall be deemed waived
18 in the following circumstances:

19 (a) A member submits a written waiver of notice with the clerk or
20 secretary of the governing body at or prior to the time the meeting
21 convenes. A written waiver may be given by telegram, fax, or
22 ~~((electronic mail))~~ email; or

23 (b) A member is actually present at the time the meeting
24 convenes.

25 (2) Notice of a special meeting called under subsection (1) of
26 this section shall be:

27 (a) Delivered to each local newspaper of general circulation and
28 local radio or television station that has on file with the governing
29 body a written request to be notified of such special meeting or of
30 all special meetings;

31 (b) Posted on the agency's website. An agency is not required to
32 post a special meeting notice on its website if it ~~((i))~~ does not
33 have a website ~~((i))~~ or share a website with another agency.
34 Except in the case of a remote meeting or a meeting at which the
35 physical attendance by some or all members of the public is limited
36 due to a declared emergency as provided for in this chapter, an
37 agency is not required to post a special meeting notice on its
38 website if it employs ~~((fewer than ten))~~ no full-time equivalent
39 employees ~~((i))~~, or ~~((iii))~~ does not employ personnel whose duty, as

1 defined by a job description or existing contract, is to maintain or
2 update the website; and

3 (c) Prominently displayed at the main entrance of the agency's
4 principal location and the meeting site if it is not held at the
5 agency's principal location and is not held as a remote meeting;
6 except that during a declared emergency which prevents a meeting from
7 being held in-person with reasonable safety an agency that hosts a
8 website or shares a website with another agency may instead post
9 notice of a remote meeting without a physical location on the website
10 hosted or shared by the agency.

11 Such notice must be delivered or posted, as applicable, at least
12 (~~twenty-four~~) 24 hours before the time of such meeting as specified
13 in the notice.

14 (3) The call and notices required under subsections (1) and (2)
15 of this section shall specify the time and place of the special
16 meeting and the business to be transacted. Final disposition shall
17 not be taken on any other matter at such meetings by the governing
18 body.

19 (4) The notices provided in this section may be dispensed with in
20 the event a special meeting is called to deal with an emergency
21 involving injury or damage to persons or property or the likelihood
22 of such injury or damage, when time requirements of such notice would
23 make notice impractical and increase the likelihood of such injury or
24 damage, or when the required notice cannot be posted or displayed
25 with reasonable safety, including but not limited to declared
26 emergencies in which travel to physically post notice is barred or
27 advised against.

28 **Sec. 11.** RCW 42.30.090 and 2012 c 117 s 125 are each amended to
29 read as follows:

30 The governing body of a public agency may adjourn any regular,
31 adjourned regular, special, or adjourned special meeting to a time
32 and place specified in the order of adjournment. Less than a quorum
33 may so adjourn from time to time. If all members are absent from any
34 regular or adjourned regular meeting the clerk or secretary of the
35 governing body may declare the meeting adjourned to a stated time and
36 place. He or she shall cause a written notice of the adjournment to
37 be given in the same manner as provided in RCW 42.30.080 for special
38 meetings, unless such notice is waived as provided for special
39 meetings. (~~Whenever~~) Except in the case of remote meetings without

1 a physical location as provided for in this chapter, whenever any
2 meeting is adjourned a copy of the order or notice of adjournment
3 shall be conspicuously posted immediately after the time of the
4 adjournment on or near the door of the place where the regular,
5 adjourned regular, special, or adjourned special meeting was held.
6 When a regular or adjourned regular meeting is adjourned as provided
7 in this section, the resulting adjourned regular meeting is a regular
8 meeting for all purposes. When an order of adjournment of any meeting
9 fails to state the hour at which the adjourned meeting is to be held,
10 it shall be held at the hour specified for regular meetings by
11 ordinance, resolution, bylaw, or other rule.

12 **Sec. 12.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to
13 read as follows:

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

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

18 (ii) To consider, if in compliance with any required data
19 security breach disclosure under RCW 19.255.010 and 42.56.590, and
20 with legal counsel available, information regarding the
21 infrastructure and security of computer and telecommunications
22 networks, security and service recovery plans, security risk
23 assessments and security test results to the extent that they
24 identify specific system vulnerabilities, and other information that
25 if made public may increase the risk to the confidentiality,
26 integrity, or availability of agency security or to information
27 technology infrastructure or assets;

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

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

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

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

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

8 (g) To evaluate the qualifications of an applicant for public
9 employment or to review the performance of a public employee.
10 However, subject to RCW 42.30.140(4), discussion by a governing body
11 of salaries, wages, and other conditions of employment to be
12 generally applied within the agency shall occur in a meeting open to
13 the public, and when a governing body elects to take final action
14 hiring, setting the salary of an individual employee or class of
15 employees, or discharging or disciplining an employee, that action
16 shall be taken in a meeting open to the public;

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

21 (i) To discuss with legal counsel representing the agency matters
22 relating to agency enforcement actions, or to discuss with legal
23 counsel representing the agency litigation or potential litigation to
24 which the agency, the governing body, or a member acting in an
25 official capacity is, or is likely to become, a party, when public
26 knowledge regarding the discussion is likely to result in an adverse
27 legal or financial consequence to the agency.

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

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

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

39 (iii) Litigation or legal risks of a proposed action or current
40 practice that the agency has identified when public discussion of the

1 litigation or legal risks is likely to result in an adverse legal or
2 financial consequence to the agency;

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

9 (k) To consider, in the case of the state investment board,
10 financial and commercial information when the information relates to
11 the investment of public trust or retirement funds and when public
12 knowledge regarding the discussion would result in loss to such funds
13 or in private loss to the providers of this information;

14 (l) To consider proprietary or confidential nonpublished
15 information related to the development, acquisition, or
16 implementation of state purchased health care services as provided in
17 RCW 41.05.026;

18 (m) To consider in the case of the life sciences discovery fund
19 authority, the substance of grant applications and grant awards when
20 public knowledge regarding the discussion would reasonably be
21 expected to result in private loss to the providers of this
22 information;

23 (n) To consider in the case of a health sciences and services
24 authority, the substance of grant applications and grant awards when
25 public knowledge regarding the discussion would reasonably be
26 expected to result in private loss to the providers of this
27 information;

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

30 (2) Before convening in executive session, the presiding officer
31 of a governing body shall publicly announce the purpose for excluding
32 the public from the meeting place, and the time when the executive
33 session will be concluded. The executive session may be extended to a
34 stated later time by announcement of the presiding officer. The
35 announced purpose of excluding the public must be entered into the
36 minutes of the meeting required by RCW 42.30.035.

37 NEW SECTION. **Sec. 13.** A new section is added to chapter 42.30
38 RCW to read as follows:

1 (1) Except in an emergency situation, the governing body of a
2 public agency shall provide an opportunity at or before every regular
3 meeting at which final action is taken for public comment. The public
4 comment required under this section may be taken orally at a public
5 meeting, or by providing an opportunity for written testimony to be
6 submitted before or at the meeting. If the governing body accepts
7 written testimony, this testimony must be distributed to the
8 governing body. The governing body may set a reasonable deadline for
9 the submission of written testimony before the meeting.

10 (2) Upon the request of any individual who will have difficulty
11 attending a meeting of the governing body of a public agency by
12 reason of disability, limited mobility, or for any other reason that
13 makes physical attendance at a meeting difficult, the governing body
14 shall, when feasible, provide an opportunity for that individual to
15 provide oral comment at the meeting remotely if oral comment from
16 other members of the public will be accepted at the meeting.

17 (3) Nothing in this section prevents a governing body from
18 allowing public comment on items not on the meeting agenda.

19 (4) Nothing in this section diminishes the authority of governing
20 bodies to deal with interruptions under RCW 42.30.050, limits the
21 ability of the governing body to put limitations on the time
22 available for public comment or on how public comment is accepted, or
23 requires a governing body to accept public comment that renders
24 orderly conduct of the meeting unfeasible.

25 **Sec. 14.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each
26 amended to read as follows:

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

30 NEW SECTION. **Sec. 15.** Sections 5 through 11 of this act are
31 necessary for the immediate preservation of the public peace, health,
32 or safety, or support of the state government and its existing public
33 institutions, and take effect immediately.

Passed by the House March 7, 2022.
Passed by the Senate March 3, 2022.
Approved by the Governor March 24, 2022.
Filed in Office of Secretary of State March 24, 2022.

--- END ---