

HOUSE BILL REPORT

HB 2520

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to emergency meetings of public agencies.

Brief Description: Concerning emergency meetings of public agencies.

Sponsors: Representatives Lekanoff, Eslick, Parshley, Pollet, Donaghy, Ramel and Scott.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/27/26, 2/3/26 [DP].

Brief Summary of Bill

- Authorizes counties to hold special meetings outside of the county seat or remotely when necessary to take expedited action needed to meet an emergency, thereby aligning such authority with provisions under the Open Public Meetings Act.
- Authorizes governing bodies of an agency to take action to address an emergency at a meeting held remotely or at which the physical attendance by some or all members of the public is limited due to a declared emergency, without first providing the option for the public to listen to such meeting.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 7 members: Representatives Mena, Chair; Stearns, Vice Chair; Waters, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Chase, Doglio and Farivar.

Staff: Desiree Omli (786-7105).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Open Public Meetings Act.

Generally. The meetings of the governing body of a public agency must, with limited exceptions, be open to the public. The Open Public Meetings Act (OPMA) grants public access to all meetings of the governing body involving the transaction of official business, such as receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. Governing bodies generally may not adopt any ordinance, resolution, rule, regulation, order, or directive outside of a properly noticed meeting that is open to the public. Minutes are required for all regular and special meetings except executive sessions and must be made available for public inspection.

Unless otherwise provided for in the statute under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. Meetings of the governing body may be held as hybrid meetings where the physical location of the meeting is coupled with a remote access option. However, governing bodies may not hold a remote-only meeting absent a declared emergency that impedes the governing body's ability to hold an in-person meeting.

Members of a governing body may also meet in an executive session during an open public meeting and exclude the members of the public from the executive session, but only for reasons specified in state law, including, in part, discussions related to the purchase or sale of land, the qualifications of potential appointees, or to consider complaints or charges against a public official or employee.

In general, the OPMA supersedes conflicting provisions in other state laws, with exceptions.

Special Meetings and Emergencies. Whenever an agency has a meeting at a time other than a scheduled regular meeting, it is conducting a "special meeting." For each special meeting that is not an emergency meeting, the OPMA requires at least 24 hours' written notice to members of the governing body, media representatives, and the public. The notice of a special meeting must specify the time and place of the meeting and "the business to be transacted." At a special meeting, final disposition by the agency is limited to the matters identified as the business to be conducted in the notice.

No action may be taken at a remote meeting or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency if the public agency has not provided an option for the public to listen to proceedings.

If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a special meeting at a site other than the regular meeting site for a

remote meeting without a physical location or for a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency. The courts have found that an agency must be confronted with a true emergency that requires immediate action, such as a natural disaster, for its governing body to hold an emergency meeting that does not comply with the OPMA. The notice requirements of the OPMA are suspended during the emergency. An agency should, however, provide a special meeting notice of an emergency meeting, if practicable.

County Meetings. Although the OPMA does not require that a city, county, or special district governing body hold its meetings within the city or in a particular place in the county or district, other statutes may require governing bodies of local governments to meet in specific locations in order to conduct business. For example, county legislative bodies must hold their regular meetings at the county seat. However, county legislative bodies can hold regular meetings outside the county seat but within the county if the legislative body determines that holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government. In addition, county legislative bodies may hold special meetings in the county outside of the county seat if there are agenda items that are of unique interest or concern to the residents of the area of the county in which the meetings are held. A joint meeting of two or more county legislative authorities may be held in the county seat of a participating county if the meeting agenda includes an item or items that relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

Summary of Bill:

The governing body of a county may hold a special meeting outside of the county seat or remotely when necessary to take expedited action needed to meet an emergency. Notice of such a meeting is required unless exempt under the OPMA in circumstances of emergencies, and minutes of such meetings must be recorded and open to public inspection.

The OPMA is amended to specify that an agency may take action to address an emergency at a meeting held remotely or at which the physical attendance by some or all members of the public is limited due to a declared emergency, without first providing the option for the public to listen to such meeting.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The impetus for this bill is the recent historic flooding in the state, which devastated no other region more severely than Skagit Valley. Businesses were lost, farms were destroyed, and salmon recovery projects along the river were wiped away. Almost 100,000 residents in Skagit County were evacuated. As a result of the evacuations and flood conditions, the county council needed to meet outside of its regular county seat to address the emergency, which is currently not authorized under statutes governing county commissioners despite the Open Public Meetings Act (OPMA) allowing meetings outside of a governing body's regular meeting place during emergencies. The bill would expressly authorize counties to hold special meetings outside of the county seat when necessary to take expedited action needed to meet on an emergency. The purpose of the OPMA is to promote government transparency and this bill does not erode that. Rather, it alleviates any confusion in existing law about whether action can be taken during meetings held in emergency situations like the flood event in Skagit County. This authority exists in current law, including in the emergency management statute, but the OPMA contains confusing provisions which result in local governments receiving conflicting guidance on what can and cannot be done. Clarifying the authority under the OPMA will assist public agencies in understanding what is authorized in emergency situations. Local authorities should be able to respond quickly and decisively during an emergency and the policy in this bill helps governing bodies do that.

(Opposed) Although tremendous emergencies require some flexibility, this bill loosens the rules of transparency. There needs to be a definition of what qualifies as an emergency and governing bodies should not be allowed to take final action at meetings where the public is not included. Such a policy would provide a barrier to the ability of the public to discover violations, create a loophole by characterizing anything as an "emergency," and make litigation much more difficult.

(Other) The authority provided under the bill should only be provided when there is an official state or federal declared emergency. Further, the policy in the bill is circular because the OPMA allows agencies to do all of the things enumerated in the bill except take action at the emergency meetings. Final action is not taken at these meetings when governing bodies are taking tours of disaster sites because the resources are not available at these types of meetings to do that. This bill creates confusion, because there is a statute where it says you can take final action at these types of meetings, or at least it implies a governing body can take final action, and one which says it cannot.

Persons Testifying: (In support) Representative Debra Lekanoff, prime sponsor; Josh Weiss, Skagit County; and Paul Jewell, Washington State Association of Counties.

(Opposed) Colette Weeks, Washington Coalition for Open Government; and Arthur West.

(Other) Joe Kunzler, Private Citizen; and Rowland Thompson, Allied Daily Newspapers of WA, WA State Assn of Broadcasters, WA Newspaper Publishers Assn.

Persons Signed In To Testify But Not Testifying: None.