

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 742

Introduced by Erdman, 47; Brewer, 43.

Read first time January 05, 2022

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Open Meetings Act; to amend sections
2 84-1411 and 84-1413, Revised Statutes Supplement, 2021; to change
3 provisions relating to minutes kept as an electronic record; to
4 harmonize provisions; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-1411, Revised Statutes Supplement, 2021, is
2 amended to read:

3 84-1411 (1)(a) Each public body shall give reasonable advance
4 publicized notice of the time and place of each meeting as provided in
5 this subsection. Such notice shall be transmitted to all members of the
6 public body and to the public.

7 (b)(i) Except as provided in subdivision (1)(b)(ii) of this section,
8 in the case of a public body described in subdivision (1)(a)(i) of
9 section 84-1409 or such body's advisory committee, such notice shall be
10 published in a newspaper of general circulation within the public body's
11 jurisdiction and, if available, on such newspaper's website.

12 (ii) In the case of the governing body of a city of the second class
13 or village or such body's advisory committee, such notice shall be
14 published by:

15 (A) Publication in a newspaper of general circulation within the
16 public body's jurisdiction and, if available, on such newspaper's
17 website; or

18 (B) Posting written notice in three conspicuous public places in
19 such city or village. Such notice shall be posted in the same three
20 places for each meeting.

21 (iii) In the case of a public body not described in subdivision (1)
22 (b)(i) or (ii) of this section, such notice shall be given by a method
23 designated by the public body.

24 (c) In addition to a method of notice required by subdivision (1)(b)
25 (i) or (ii) of this section, such notice may also be provided by any
26 other appropriate method designated by such public body or such advisory
27 committee.

28 (d) Each public body shall record the methods and dates of such
29 notice in its minutes.

30 (e) Such notice shall contain an agenda of subjects known at the
31 time of the publicized notice or a statement that the agenda, which shall

1 be kept continually current, shall be readily available for public
2 inspection at the principal office of the public body during normal
3 business hours. Agenda items shall be sufficiently descriptive to give
4 the public reasonable notice of the matters to be considered at the
5 meeting. Except for items of an emergency nature, the agenda shall not be
6 altered later than (i) twenty-four hours before the scheduled
7 commencement of the meeting or (ii) forty-eight hours before the
8 scheduled commencement of a meeting of a city council or village board
9 scheduled outside the corporate limits of the municipality. The public
10 body shall have the right to modify the agenda to include items of an
11 emergency nature only at such public meeting.

12 (2)(a) The following entities may hold a meeting by means of virtual
13 conferencing if the requirements of subdivision (2)(b) of this section
14 are met:

15 (i) A state agency, state board, state commission, state council, or
16 state committee, or an advisory committee of any such state entity;

17 (ii) An organization, including the governing body, created under
18 the Interlocal Cooperation Act, the Joint Public Agency Act, or the
19 Municipal Cooperative Financing Act;

20 (iii) The governing body of a public power district having a
21 chartered territory of more than one county in this state;

22 (iv) The governing body of a public power and irrigation district
23 having a chartered territory of more than one county in this state;

24 (v) An educational service unit;

25 (vi) The Educational Service Unit Coordinating Council;

26 (vii) An organization, including the governing body, of a risk
27 management pool or its advisory committees organized in accordance with
28 the Intergovernmental Risk Management Act;

29 (viii) A community college board of governors;

30 (ix) The Nebraska Brand Committee;

31 (x) A local public health department;

1 (xi) A metropolitan utilities district;
2 (xii) A regional metropolitan transit authority;
3 (xiii) A natural resources district; and
4 (xiv) The Judicial Resources Commission.

5 (b) The requirements for holding a meeting by means of virtual
6 conferencing are as follows:

7 (i) Reasonable advance publicized notice is given as provided in
8 subsection (1) of this section, including providing access to a dial-in
9 number or link to the virtual conference;

10 (ii) In addition to the public's right to participate by virtual
11 conferencing, reasonable arrangements are made to accommodate the
12 public's right to attend at a physical site and participate as provided
13 in section 84-1412, including reasonable seating, in at least one
14 designated site in a building open to the public and identified in the
15 notice, with: At least one member of the entity holding such meeting, or
16 his or her designee, present at each site; a recording of the hearing by
17 audio or visual recording devices; and a reasonable opportunity for
18 input, such as public comment or questions, is provided to at least the
19 same extent as would be provided if virtual conferencing was not used;

20 (iii) At least one copy of all documents being considered at the
21 meeting is available at any physical site open to the public where
22 individuals may attend the virtual conference. The public body shall also
23 provide links to an electronic copy of the agenda, all documents being
24 considered at the meeting, and the current version of the Open Meetings
25 Act; and

26 (iv) Except as otherwise provided in this subdivision or subsection
27 (4) of section 79-2204, no more than one-half of the meetings of the
28 state entities, advisory committees, boards, councils, organizations, or
29 governing bodies are held by virtual conferencing in a calendar year. In
30 the case of an organization created under the Interlocal Cooperation Act
31 that sells electricity or natural gas at wholesale on a multistate basis

1 or an organization created under the Municipal Cooperative Financing Act,
2 the organization may hold more than one-half of its meetings by virtual
3 conferencing if such organization holds at least one meeting each
4 calendar year that is not by virtual conferencing. The governing body of
5 a risk management pool that meets at least quarterly and the advisory
6 committees of the governing body may each hold more than one-half of its
7 meetings by virtual conferencing if the governing body's quarterly
8 meetings are not held by virtual conferencing.

9 (3) Virtual conferencing, emails, faxes, or other electronic
10 communication shall not be used to circumvent any of the public
11 government purposes established in the Open Meetings Act.

12 (4) The secretary or other designee of each public body shall
13 maintain a list of the news media requesting notification of meetings and
14 shall make reasonable efforts to provide advance notification to them of
15 the time and place of each meeting and the subjects to be discussed at
16 that meeting.

17 (5) When it is necessary to hold an emergency meeting without
18 reasonable advance public notice, the nature of the emergency shall be
19 stated in the minutes and any formal action taken in such meeting shall
20 pertain only to the emergency. Such emergency meetings may be held by
21 virtual conferencing. The provisions of subsection (4) of this section
22 shall be complied with in conducting emergency meetings. Complete minutes
23 of such emergency meetings specifying the nature of the emergency and any
24 formal action taken at the meeting shall be made available to the public
25 by no later than the end of the next regular business day.

26 (6) A public body may allow a member of the public or any other
27 witness to appear before the public body by means of virtual
28 conferencing.

29 (7)(a) Notwithstanding subsections (2) and (5) of this section, if
30 an emergency is declared by the Governor pursuant to the Emergency
31 Management Act as defined in section 81-829.39, a public body the

1 territorial jurisdiction of which is included in the emergency
2 declaration, in whole or in part, may hold a meeting by virtual
3 conferencing during such emergency if the public body gives reasonable
4 advance publicized notice as described in subsection (1) of this section.
5 The notice shall include information regarding access for the public and
6 news media. In addition to any formal action taken pertaining to the
7 emergency, the public body may hold such meeting for the purpose of
8 briefing, discussion of public business, formation of tentative policy,
9 or the taking of any action by the public body.

10 (b) The public body shall provide access by providing a dial-in
11 number or a link to the virtual conference. The public body shall also
12 provide links to an electronic copy of the agenda, all documents being
13 considered at the meeting, and the current version of the Open Meetings
14 Act. Reasonable arrangements shall be made to accommodate the public's
15 right to hear and speak at the meeting and record the meeting. Subsection
16 (4) of this section shall be complied with in conducting such meetings.

17 (c) The nature of the emergency shall be stated in the minutes.
18 Complete minutes of such meeting specifying the nature of the emergency
19 and any formal action taken at the meeting shall be made available for
20 inspection as provided in subsection subsections (5) and (6) of section
21 84-1413.

22 Sec. 2. Section 84-1413, Revised Statutes Supplement, 2021, is
23 amended to read:

24 84-1413 (1) Each public body shall keep minutes of all meetings
25 showing the time, place, members present and absent, and the substance of
26 all matters discussed.

27 (2) Any action taken on any question or motion duly moved and
28 seconded shall be by roll call vote of the public body in open session,
29 and the record shall state how each member voted or if the member was
30 absent or not voting. The requirements of a roll call or viva voce vote
31 shall be satisfied by a public body which utilizes an electronic voting

1 device which allows the yeas and nays of each member of such public body
2 to be readily seen by the public.

3 (3) The vote to elect leadership within a public body may be taken
4 by secret ballot, but the total number of votes for each candidate shall
5 be recorded in the minutes.

6 (4) The minutes of all meetings and evidence and documentation
7 received or disclosed in open session shall be public records and open to
8 public inspection during normal business hours.

9 (5) Minutes shall be written or kept as an electronic record,
10 ~~except as provided in subsection (6) of this section, and shall be~~
11 available for inspection within ten working days or prior to the next
12 convened meeting, whichever occurs earlier, except that cities of the
13 second class and villages may have an additional ten working days if the
14 employee responsible for writing or keeping the minutes is absent due to
15 a serious illness or emergency.

16 (6) ~~Minutes of the meetings of the board of a school district or~~
17 ~~educational service unit may be kept as an electronic record.~~

18 (6) (7) Beginning July 31, 2022, the governing body of a natural
19 resources district, the city council of a city of the metropolitan class,
20 the city council of a city of the primary class, the city council of a
21 city of the first class, the county board of a county with a population
22 greater than twenty-five thousand inhabitants, and the school board of a
23 school district shall make available on such entity's public website the
24 agenda and minutes of any meeting of the governing body. The agenda shall
25 be placed on the website at least twenty-four hours before the meeting of
26 the governing body. Minutes shall be placed on the website at such time
27 as the minutes are available for inspection as provided in subsection (5)
28 of this section. This information shall be available on the public
29 website for at least six months.

30 Sec. 3. Original sections 84-1411 and 84-1413, Revised Statutes
31 Supplement, 2021, are repealed.