

REFERENCE TITLE: **executive sessions; public meetings**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2753

Introduced by
Representatives Pingerelli: Chaplik, Fillmore, Finchem, Hoffman, Parker

AN ACT

AMENDING SECTION 38-431.02, ARIZONA REVISED STATUTES; RELATING TO PUBLIC MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-431.02, Arizona Revised Statutes, is amended
3 to read:

4 38-431.02. Notice of meetings

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

7 1. The public bodies of this state, including governing bodies of
8 charter schools, shall:

9 (a) Conspicuously post a statement on their website stating where
10 all public notices of their meetings will be posted, including the
11 physical and electronic locations, and shall give additional public notice
12 as is reasonable and practicable as to all meetings.

13 (b) Post all public meeting notices on their website and give
14 additional public notice as is reasonable and practicable as to all
15 meetings. A technological problem or failure that either prevents ~~the~~
16 posting ~~of~~ public notices on a website or that temporarily or permanently
17 prevents ~~the use of~~ USING all or part of the website does not preclude ~~the~~
18 holding ~~of~~ the meeting for which the notice was posted if the public body
19 complies with all other public notice requirements required by this
20 section.

21 2. The public bodies of the counties and school districts shall:

22 (a) Conspicuously post a statement on their website stating where
23 all public notices of their meetings will be posted, including the
24 physical and electronic locations, and shall give additional public notice
25 as is reasonable and practicable as to all meetings.

26 (b) Post all public meeting notices on their website and give
27 additional public notice as is reasonable and practicable as to all
28 meetings. A technological problem or failure that either prevents ~~the~~
29 posting ~~of~~ public notices on a website or that temporarily or permanently
30 prevents ~~the use of~~ USING all or part of the website does not preclude ~~the~~
31 holding ~~of~~ the meeting for which the notice was posted if the public body
32 complies with all other public notice requirements required by this
33 section.

34 3. Special districts that are formed pursuant to title 48:

35 (a) May conspicuously post a statement on their website stating
36 where all public notices of their meetings will be posted, including the
37 physical and electronic locations, and shall give additional public notice
38 as is reasonable and practicable as to all meetings.

39 (b) May post all public meeting notices on their website and shall
40 give additional public notice as is reasonable and practicable as to all
41 meetings. A technological problem or failure that either prevents ~~the~~
42 posting ~~of~~ public notices on a website or that temporarily or permanently
43 prevents ~~the use of~~ USING all or part of the website does not preclude ~~the~~
44 holding ~~of~~ the meeting for which the notice was posted if the public body

1 complies with all other public notice requirements required by this
2 section.

3 (c) If a statement or notice is not posted pursuant to subdivision
4 (a) or (b) of this paragraph, shall file a statement with the clerk of the
5 board of supervisors stating where all public notices of their meetings
6 will be posted and shall give additional public notice as is reasonable
7 and practicable as to all meetings.

8 4. The public bodies of the cities and towns shall:

9 (a) Conspicuously post a statement on their website or on a website
10 of an association of cities and towns stating where all public notices of
11 their meetings will be posted, including the physical and electronic
12 locations, and shall give additional public notice as is reasonable and
13 practicable as to all meetings.

14 (b) Post all public meeting notices on their website or on a
15 website of an association of cities and towns and give additional public
16 notice as is reasonable and practicable as to all meetings. A
17 technological problem or failure that either prevents ~~the posting of~~
18 public notices on a website or that temporarily or permanently prevents
19 ~~the use of~~ USING all or part of the website does not preclude ~~the~~ holding
20 ~~of~~ the meeting for which the notice was posted if the public body complies
21 with all other public notice requirements required by this section.

22 B. If an executive session is scheduled, a notice of the executive
23 session shall state the provision of law authorizing the executive session
24 AND, IN THE CASE OF LEGAL ADVICE, SHALL INCLUDE THE SPECIFIC PROVISION OF
25 SECTION 38-431.03 TO WHICH THE LEGAL ADVICE PERTAINS, and the notice shall
26 be provided to the:

- 27 1. Members of the public body.
- 28 2. General public.

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

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

43 E. A meeting may be recessed and resumed with less than twenty-four
44 hours' notice if public notice of the initial session of the meeting is
45 given as required in subsection A of this section, and if, before

1 recessing, notice is publicly given as to the time and place of the
2 resumption of the meeting or the method by which notice shall be publicly
3 given.

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

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

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

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

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

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

42 1. The summary is listed on the agenda.

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