

REFERENCE TITLE: open meetings; capacity

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1270**

Introduced by  
Senator Kavanagh

AN ACT

AMENDING SECTIONS 38-431.01 AND 38-431.02, ARIZONA REVISED STATUTES;  
RELATING TO PUBLIC MEETINGS AND PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-431.01, Arizona Revised Statutes, is amended  
3 to read:

4 38-431.01. Meetings shall be open to the public; seating;  
5 minutes; recordings

6 A. All meetings of any public body shall be public meetings and all  
7 persons so desiring shall be ~~permitted~~ ALLOWED to attend and listen to the  
8 deliberations and proceedings. All legal action of public bodies shall  
9 occur during a public meeting.

10 B. SCHOOLS, SCHOOL BOARDS, EXECUTIVE BOARDS AND MUNICIPALITIES  
11 SHALL PROVIDE FOR AN AMOUNT OF SEATING SUFFICIENT TO ACCOMMODATE THE  
12 REASONABLY ANTICIPATED ATTENDANCE OF ALL PERSONS DESIRING TO ATTEND THE  
13 DELIBERATIONS AND PROCEEDINGS, WHEN FEASIBLE.

14 ~~B.~~ C. All public bodies shall provide for the taking of written  
15 minutes or a recording of all their meetings, including executive  
16 sessions. For meetings other than executive sessions, the minutes or  
17 recording shall include:

18 1. The date, time and place of the meeting.

19 2. The members of the public body recorded as either present or  
20 absent.

21 3. A general description of the matters considered.

22 4. An accurate description of all legal actions proposed, discussed  
23 or taken, including a record of how each member voted. The minutes shall  
24 also include the names of the members who propose each motion and the  
25 names of the persons, as given, who make statements or present material to  
26 the public body and a reference to the legal action about which they made  
27 statements or presented material.

28 ~~C.~~ D. Minutes of executive sessions shall include items set forth  
29 in subsection ~~B.~~ C, paragraphs 1, 2 and 3 of this section, an accurate  
30 description of all instructions given pursuant to section 38-431.03,  
31 subsection A, paragraphs 4, 5 and 7 and other matters as may be deemed  
32 appropriate by the public body.

33 ~~D.~~ E. The minutes or a recording of a meeting shall be available  
34 for public inspection three working days after the meeting except as  
35 otherwise specifically provided by this article.

36 ~~E.~~ F. A public body of a city or town with a population of more  
37 than two thousand five hundred persons shall:

38 1. Within three working days after a meeting, except for  
39 subcommittees and advisory committees, post on its website, if applicable,  
40 either:

41 (a) A statement describing the legal actions taken by the public  
42 body of the city or town during the meeting.

43 (b) Any recording of the meeting.

1           2. Within two working days following approval of the minutes, post  
2 approved minutes of city or town council meetings on its website, if  
3 applicable, except as otherwise specifically provided by this article.

4           3. Within ten working days after a subcommittee or advisory  
5 committee meeting, post on its website, if applicable, either:

6           (a) A statement describing legal action, if any.

7           (b) A recording of the meeting.

8           ~~F.~~ G. All or any part of a public meeting of a public body may be  
9 recorded by any person in attendance by means of a tape recorder or camera  
10 or any other means of sonic reproduction, provided that there is no active  
11 interference with the conduct of the meeting.

12           ~~G.~~ H. The secretary of state for state public bodies, the city or  
13 town clerk for municipal public bodies and the county clerk for all other  
14 local public bodies shall conspicuously post open meeting law materials  
15 prepared and approved by the attorney general on their website. A person  
16 elected or appointed to a public body shall review the open meeting law  
17 materials at least one day before the day that person takes office.

18           ~~H.~~ I. A public body may make an open call to the public during a  
19 public meeting, subject to reasonable time, place and manner restrictions,  
20 to allow individuals to address the public body on any issue within the  
21 jurisdiction of the public body. At the conclusion of an open call to the  
22 public, individual members of the public body may respond to criticism  
23 made by those who have addressed the public body, may ask staff to review  
24 a matter or may ask that a matter be put on a future agenda. However,  
25 members of the public body shall not discuss or take legal action on  
26 matters raised during an open call to the public unless the matters are  
27 properly noticed for discussion and legal action.

28           ~~I.~~ J. A member of a public body shall not knowingly direct any  
29 staff member to communicate in violation of this article.

30           ~~J.~~ K. Any posting required by subsection ~~F~~ F of this section must  
31 remain on the applicable website for at least one year after the date of  
32 the posting.

33           Sec. 2. Section 38-431.02, Arizona Revised Statutes, is amended to  
34 read:

35           38-431.02. Notice of meetings

36           A. Public notice of all meetings of public bodies shall be given as  
37 follows:

38           1. The public bodies of this state, including governing bodies of  
39 charter schools, shall:

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

44           (b) Post all public meeting notices on their website and give  
45 additional public notice as is reasonable and practicable as to all

1 meetings. A technological problem or failure that either prevents ~~the~~  
2 posting ~~of~~ public notices on a website or that temporarily or permanently  
3 prevents ~~the use of~~ USING all or part of the website does not preclude ~~the~~  
4 holding ~~of~~ the meeting for which the notice was posted if the public body  
5 complies with all other public notice requirements required by this  
6 section.

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

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

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

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

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

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

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

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

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

44 (b) Post all public meeting notices on their website or on a  
45 website of an association of cities and towns and give additional public

1 notice as is reasonable and practicable as to all meetings. A  
2 technological problem or failure that either prevents ~~the~~ posting ~~of~~  
3 public notices on a website or that temporarily or permanently prevents  
4 ~~the use of~~ USING all or part of the website does not preclude ~~the~~ holding  
5 ~~of~~ the meeting for which the notice was posted if the public body complies  
6 with all other public notice requirements required by this section.

7 B. If an executive session is scheduled, a notice of the executive  
8 session shall state the provision of law authorizing the executive  
9 session, and the notice shall be provided to the:

- 10 1. Members of the public body.
- 11 2. General public.

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

18 D. In case of an actual emergency, a meeting, including an  
19 executive session, may be held on such notice as is appropriate to the  
20 circumstances. If this subsection is ~~utilized~~ USED for conduct of an  
21 emergency session or the consideration of an emergency measure at a  
22 previously scheduled meeting the public body must post a public notice  
23 within twenty-four hours declaring that an emergency session has been held  
24 and setting forth the information required in subsections H and I of this  
25 section.

26 E. A meeting may be recessed and resumed with less than twenty-four  
27 hours' notice if public notice of the initial session of the meeting is  
28 given as required in subsection A of this section, and if, before  
29 recessing, notice is publicly given as to the time and place of the  
30 resumption of the meeting or the method by which notice shall be publicly  
31 given.

32 F. A public body that intends to meet for a specified calendar  
33 period, on a regular day, date or event during the calendar period, and at  
34 a regular place and time, may post public notice of the meetings at the  
35 beginning of the period. The notice shall specify the period for which  
36 notice is applicable.

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

1 H. Agendas required under this section shall list the specific  
2 matters to be discussed, considered or decided at the meeting. THE AGENDA  
3 SHALL ALSO INCLUDE NOTICE OF THE TIME THAT THE PUBLIC WILL HAVE PHYSICAL  
4 ACCESS TO THE MEETING PLACE. The public body may discuss, consider or  
5 make decisions only on matters listed on the agenda and other matters  
6 related thereto.

7 I. Notwithstanding the other provisions of this section, notice of  
8 executive sessions shall be required to include only a general description  
9 of the matters to be considered. The agenda shall provide more than just  
10 a recital of the statutory provisions authorizing the executive session,  
11 but need not contain information that would defeat the purpose of the  
12 executive session, compromise the legitimate privacy interests of a public  
13 officer, appointee or employee or compromise the attorney-client  
14 privilege.

15 J. Notwithstanding subsections H and I of this section, in the case  
16 of an actual emergency a matter may be discussed and considered and, at  
17 public meetings, decided, if the matter was not listed on the agenda and a  
18 statement setting forth the reasons necessitating the discussion,  
19 consideration or decision is placed in the minutes of the meeting and is  
20 publicly announced at the public meeting. In the case of an executive  
21 session, the reason for consideration of the emergency measure shall be  
22 announced publicly immediately before the executive session.

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

- 27 1. The summary is listed on the agenda.
- 28 2. The public body does not propose, discuss, deliberate or take  
29 legal action at that meeting on any matter in the summary unless the  
30 specific matter is properly noticed for legal action.