

House Engrossed

open meetings; public body; legislature

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2481

AN ACT

AMENDING SECTIONS 38-431, 38-431.01, 38-431.02 AND 38-431.08, 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, Arizona Revised Statutes, is amended to
3 read:

4 38-431. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Advisory committee" or "subcommittee" means any entity, however
7 designated, that is officially established, on motion and order of a
8 public body or by the presiding officer of the public body, and whose
9 members have been appointed for the specific purpose of making a
10 recommendation concerning a decision to be made or considered or a course
11 of conduct to be taken or considered by the public body.

12 2. "Executive session" means a gathering of a quorum of members of
13 a public body from which the public is excluded for one or more of the
14 reasons prescribed in section 38-431.03. In addition to the members of
15 the public body, officers, appointees and employees as provided in section
16 38-431.03 and the auditor general as provided in section 41-1279.04, only
17 individuals whose presence is reasonably necessary in order for the public
18 body to carry out its executive session responsibilities may attend the
19 executive session.

20 3. "Legal action" means a collective decision, commitment or
21 promise made by a public body pursuant to the constitution, the public
22 body's charter, bylaws or specified scope of appointment and the laws of
23 this state.

24 4. "Meeting":

25 (a) Means the gathering, in person or through technological
26 devices, of a quorum of the members of a public body at which they
27 discuss, propose or take legal action, including any deliberations by a
28 quorum with respect to that action.

29 (b) Includes:

30 (i) A one-way electronic communication by one member of a public
31 body that is sent to a quorum of the members of a public body and that
32 proposes legal action.

33 (ii) An exchange of electronic communications among a quorum of the
34 members of a public body that involves a discussion, deliberation or the
35 taking of legal action by the public body concerning a matter likely to
36 come before the public body for action.

37 5. "Political subdivision" means all political subdivisions of this
38 state, including without limitation all counties, cities and towns, school
39 districts and special districts.

40 6. "Public body" means ~~the legislature,~~ all boards and commissions
41 of this state or political subdivisions, all multimember governing bodies
42 of departments, agencies, institutions and instrumentalities of this state
43 or political subdivisions, including without limitation all corporations
44 and other instrumentalities whose boards of directors are appointed or
45 elected by this state or a political subdivision. Public body includes

1 all quasi-judicial bodies and all standing, special or advisory committees
2 or subcommittees of, or appointed by, the public body. Public body
3 includes all commissions and other public entities established by the
4 Arizona Constitution or by way of ballot initiative, including the
5 independent redistricting commission, and this article applies except and
6 only to the extent that specific constitutional provisions supersede this
7 article.

8 7. "Quasi-judicial body" means a public body, other than a court of
9 law, possessing the power to hold hearings on disputed matters between a
10 private person and a public agency and to make decisions in the general
11 manner of a court regarding such disputed claims.

12 Sec. 2. Section 38-431.01, Arizona Revised Statutes, is amended to
13 read:

14 38-431.01. Meetings shall be open to the public; seating;
15 minutes; recordings

16 A. All meetings of any public body shall be public meetings and all
17 persons so desiring shall be allowed to attend and listen to the
18 deliberations and proceedings. ALL PUBLIC BODIES SHALL PROVIDE AN
19 OPPORTUNITY FOR PUBLIC COMMENT IN PERSON BEFORE ANY FINAL DECISION,
20 SUBJECT TO REASONABLE TIME, PLACE AND MANNER RESTRICTIONS. All legal
21 action of public bodies shall occur during a public meeting.

22 B. ~~Schools, school boards, executive boards and municipalities~~ ALL
23 PUBLIC BODIES shall provide for an amount of seating sufficient to
24 accommodate the reasonably anticipated attendance of all persons desiring
25 to attend the deliberations and proceedings, when feasible. This ~~section~~
26 SUBSECTION does not require a public body to relocate a meeting outside of
27 the largest regular meeting room.

28 C. All public bodies shall provide for the taking of written
29 minutes or a recording of all their meetings, including executive
30 sessions. For meetings other than executive sessions, the minutes or
31 recording shall include:

- 32 1. The date, time and place of the meeting.
- 33 2. The members of the public body recorded as either present or
34 absent.
- 35 3. A general description of the matters considered.
- 36 4. An accurate description of all legal actions proposed, discussed
37 or taken, including a record of how each member voted. The minutes shall
38 also include the names of the members who propose each motion and the
39 names of the persons, as given, who make statements or present material to
40 the public body and a reference to the legal action about which they made
41 statements or presented material.

42 D. Minutes of executive sessions shall include items set forth in
43 subsection C, paragraphs 1, 2 and 3 of this section, an accurate
44 description of all instructions given pursuant to section 38-431.03,

1 subsection A, paragraphs 4, 5 and 7 and other matters as may be deemed
2 appropriate by the public body.

3 E. The minutes or a recording of a meeting shall be available for
4 public inspection three working days after the meeting except as otherwise
5 specifically provided by this article.

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

8 1. Within three working days after a meeting, ~~except for~~
9 ~~subcommittees and advisory committees~~, post on its website, if applicable,
10 either:

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

13 (b) Any recording of the meeting.

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

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

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

20 ~~(b) A recording of the meeting.~~

21 G. All or any part of a public meeting of a public body may be
22 recorded by any person in attendance by means of a tape recorder or camera
23 or any other means of sonic reproduction, provided that there is no active
24 interference with the conduct of the meeting.

25 H. The secretary of state for state public bodies, the city or town
26 clerk for municipal public bodies and the county clerk for all other local
27 public bodies shall conspicuously post open meeting law materials prepared
28 and approved by the attorney general on their website. A person elected
29 or appointed to a public body shall review the open meeting law materials
30 at least one day before the day that person takes office.

31 I. A public body ~~may~~ **SHALL** make an open call to the public during a
32 public meeting, subject to reasonable time, place and manner restrictions,
33 to allow individuals to address the public body on any issue within the
34 jurisdiction of the public body. At the conclusion of an open call to the
35 public, individual members of the public body may respond to criticism
36 made by those who have addressed the public body, may ask staff to review
37 a matter or may ask that a matter be put on a future agenda. However,
38 members of the public body shall not discuss or take legal action on
39 matters raised during an open call to the public unless the matters are
40 properly noticed for discussion and legal action.

41 J. A member of a public body shall not knowingly direct any staff
42 member to communicate in violation of this article.

43 K. Any posting required by subsection F of this section must remain
44 on the applicable website for at least one year after the date of the
45 posting.

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

3 38-431.02. Notice of meetings

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

6 1. The public bodies of this state, including governing bodies of
7 charter schools, 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 posting
15 public notices on a website or that temporarily or permanently prevents
16 using all or part of the website does not preclude holding the meeting for
17 which the notice was posted if the public body complies with all other
18 public notice requirements required by this section.

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

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

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

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

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

36 (b) May post all public meeting notices on their website and shall
37 give additional public notice as is reasonable and practicable as to all
38 meetings. A technological problem or failure that either prevents posting
39 public notices on a website or that temporarily or permanently prevents
40 using all or part of the website does not preclude holding the meeting for
41 which the notice was posted if the public body complies with all other
42 public notice requirements required by this section.

43 (c) If a statement or notice is not posted pursuant to subdivision
44 (a) or (b) of this paragraph, shall file a statement with the clerk of the
45 board of supervisors stating where all public notices of their meetings

1 will be posted and shall give additional public notice as is reasonable
2 and practicable as to all meetings.

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

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

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

17 B. If an executive session is scheduled, a notice of the executive
18 session shall state the provision of law authorizing the executive
19 session, and the notice shall be provided to the:

- 20 1. Members of the public body.
- 21 2. General public.

22 C. Except as provided in subsections D and E of this section,
23 meetings shall not be held without at least ~~twenty-four~~ FORTY-EIGHT hours'
24 notice to the members of the public body and to the general public. The
25 ~~twenty-four-hour~~ FORTY-EIGHT-HOUR period includes Saturdays if the public
26 has access to the physical posted location in addition to any website
27 posting, but excludes Sundays and other holidays prescribed in section
28 1-301.

29 D. In case of an actual emergency, a meeting, including an
30 executive session, may be held on such notice as is appropriate to the
31 circumstances. If this subsection is used for conduct of an emergency
32 session or the consideration of an emergency measure at a previously
33 scheduled meeting the public body must post a public notice within
34 twenty-four hours declaring that an emergency session has been held and
35 setting forth the information required in subsections H and I of this
36 section.

37 E. A meeting may be recessed and resumed with less than ~~twenty-four~~
38 FORTY-EIGHT hours' notice if public notice of the initial session of the
39 meeting is given as required in subsection A of this section, and if,
40 before recessing, notice is publicly given as to the time and place of the
41 resumption of the meeting or the method by which notice shall be publicly
42 given.

43 F. A public body that intends to meet for a specified calendar
44 period, on a regular day, date or event during the calendar period, and at
45 a regular place and time, may post public notice of the meetings at the

1 beginning of the period. The notice shall specify the period for which
2 notice is applicable.

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

12 H. Agendas required under this section shall list the specific
13 matters to be discussed, considered or decided at the meeting, **BE MADE**
14 **PUBLICLY AVAILABLE ONLINE AND INCLUDE A HYPERLINK TO ANY RELEVANT**
15 **DOCUMENTS, CONTRACTS, AGREEMENTS OR PROPOSALS UNDER CONSIDERATION BY THE**
16 **PUBLIC BODY AND REFERENCED IN THE AGENDA.** Except for a meeting through
17 technological devices, the agenda shall also include notice of the time
18 that the public will have physical access to the meeting place. The
19 public body may discuss, consider or make decisions only on matters listed
20 on the agenda and other matters related thereto.

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

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

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

41 1. The summary is listed on the agenda.

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

1 Sec. 4. Section 38-431.08, Arizona Revised Statutes, is amended to
2 read:

3 38-431.08. Exceptions; limitation

4 A. This article does not apply to:

5 1. Any judicial proceeding of any court ~~or any political caucus of~~
6 ~~the legislature.~~

7 ~~2. Any conference committee of the legislature, except that all~~
8 ~~such meetings shall be open to the public.~~

9 ~~3.~~ 2. The commissions on appellate and trial court appointments
10 and the commission on judicial qualifications.

11 ~~4.~~ 3. Good cause exception and central registry exception
12 determinations and hearings conducted by the board of fingerprinting
13 pursuant to sections 41-619.55 and 41-619.57.

14 B. A hearing held within a prison facility by the board of
15 executive clemency is subject to this article, except that the director of
16 the state department of corrections may:

17 1. Prohibit, on written findings that are made public within five
18 days ~~of~~ AFTER so finding, any person from attending a hearing whose
19 attendance would constitute a serious threat to the life or physical
20 safety of any person or to the safe, secure and orderly operation of the
21 prison.

22 2. Require a person who attends a hearing to sign an attendance
23 log. If the person is over sixteen years of age, the person shall produce
24 photographic identification that verifies the person's signature.

25 3. Prevent and prohibit any articles from being taken into a
26 hearing except recording devices and, if the person who attends a hearing
27 is a member of the media, cameras.

28 4. Require that a person who attends a hearing submit to a
29 reasonable search on entering the facility.

30 C. The exclusive remedies available to any person who is denied
31 attendance at or removed from a hearing by the director of the state
32 department of corrections in violation of this section shall be those
33 remedies available in section 38-431.07, as against the director only.

34 ~~D. Either house of the legislature may adopt a rule or procedure~~
35 ~~pursuant to article IV, part 2, section 8, Constitution of Arizona, to~~
36 ~~provide an exemption to the notice and agenda requirements of this article~~
37 ~~or to allow standing or conference committees to meet through~~
38 ~~technological devices rather than only in person.~~