State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

318B0146

SENATE STATE AFFAIRS ENGROSSED NO. SB 91 -
2/6/2019

Introduced by: Senators Soholt, Heinert, and Novstrup and Representatives Reed, Anderson, and Ring

FOR AN ACT ENTITLED, An Act to revise certain provisions regarding open meeting requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 1-25 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

(1) "Political subdivision," any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other local government entity that is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law;

(2) "Public body," any political subdivision and the state;

(3) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference;

(4) "Teleconference," information exchanged by any audio, video, or electronic medium,

100 copies were printed on recycled paper by the South Dakota Legislative Research Council at a cost of $.167 per page.

Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

including the internet;

(5) "State," each board, commission, department, or agency of the State of South Dakota. The term, state, does not include the Legislature.

Section 2. That § 1-25-1 be amended to read:

1-25-1. The official meetings of the state~~;~~ and its political subdivisions~~, and any public body of the state or its political subdivisions~~ are open to the public unless a specific law is cited by the state~~;~~ or the political subdivision~~, or the public body~~ to close the official meeting to the public. ~~For the purposes of this section, a political subdivision or a public body of a political subdivision means any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, or other agency of the state that is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. For the purposes of this section, an official meeting is any meeting of a quorum of a public body at which official business of that public body is discussed or decided, or public policy is formulated, whether in person or by means of teleconference.~~

It is not an official meeting of one ~~political subdivision or~~ public body if its members provide information or attend the official meeting of another ~~political subdivision or~~ public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the political subdivision may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum shall meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and shall contain, at a

minimum, the date, time, and location of the event.

~~Any official meeting may be conducted by teleconference as defined in § 1-25-1.2. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.~~

~~If the state, a political subdivision, or a public body conducts an official meeting by teleconference, the state, the political subdivision, or public body shall provide one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, which has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to an executive or closed meeting.~~

The ~~chair of the~~ public body shall reserve at every regularly scheduled official meeting ~~by the public body~~ a period for public comment, limited at the ~~chair's~~ public body's discretion, but not so limited as to provide for no public comment. At a minimum, public comment shall be allowed at regularly scheduled official meetings which are designated as regular meetings by statute, rule, or ordinance.

Public comment is not required at official meetings held solely for the purpose of an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body regardless of whether or not such activity takes place at the time and place usually reserved for a regularly scheduled meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of

the third class meet solely for purposes of implementing previously publicly-adopted policy, carrying out ministerial functions of that township, district, or municipality, or undertaking a factual investigation of conditions related to public safety, the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

Section 3. That chapter 1-25 be amended by adding a NEW SECTION to read:

Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference shall be taken by roll call.

Section 4. That chapter 1-25 be amended by adding a NEW SECTION to read:

At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

Section 5. That § 1-25-1.1 be amended to read:

1-25-1.1. ~~All public bodies, except the state and each state board, commission, or department as provided in § 1-25-1.3,~~ Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice,

visible to the public, at the principal office of the ~~public body~~ political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the ~~public body's~~ political subdivision's website upon dissemination of the notice, if ~~such~~ a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each ~~public body~~ political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

Section 6. That § 1-25-1.2 be repealed.

~~1-25-1.2. For the purposes of this chapter, a teleconference is information exchanged by any audio, video, or electronic medium, including the internet.~~

Section 7. That § 1-25-1.3 be amended to read:

1-25-1.3. The state ~~and each state board, commission, or department~~ shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include ~~the day the agenda is posted nor~~ Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, ~~each~~ the state ~~board, commission, or department~~ shall also

comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

Section 8. That § 1-25-3 be amended to read:

1-25-3. ~~Any board or commission of the various departments of the State of South Dakota~~ The state shall keep detailed minutes of the proceedings of all regular or special meetings. The minutes required in this section shall report how each individual member voted on any motion on which a roll call vote is taken. The minutes shall be available for inspection by the public at all times at the principal place of business of the board or commission. A violation of this section is a Class 2 misdemeanor.

Section 9. That § 1-25-11 be amended to read:

1-25-11. No ~~state, political subdivision, or~~ public body may prevent a person from recording, through audio or video technology, ~~a public~~ an official meeting ~~that is open to the public~~ as long as the recording is reasonable, obvious, and not disruptive. This section does not apply to meetings closed to the public pursuant to specific law.