

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1059**

Introduced by Flood, 19.

Read first time January 18, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Open Meetings Act; to amend sections  
2 84-1409 and 84-1411, Revised Statutes Supplement, 2021; to exempt  
3 the Judicial Resources Commission and its subcommittees or subgroups  
4 from the act; to harmonize provisions; and to repeal the original  
5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-1409, Revised Statutes Supplement, 2021, is  
2 amended to read:

3 84-1409 For purposes of the Open Meetings Act, unless the context  
4 otherwise requires:

5 (1)(a) Public body means (i) governing bodies of all political  
6 subdivisions of the State of Nebraska, (ii) governing bodies of all  
7 agencies, created by the Constitution of Nebraska, statute, or otherwise  
8 pursuant to law, of the executive department of the State of Nebraska,  
9 (iii) all independent boards, commissions, bureaus, committees, councils,  
10 subunits, or any other bodies created by the Constitution of Nebraska,  
11 statute, or otherwise pursuant to law, (iv) all study or advisory  
12 committees of the executive department of the State of Nebraska whether  
13 having continuing existence or appointed as special committees with  
14 limited existence, (v) advisory committees of the bodies referred to in  
15 subdivisions (i), (ii), and (iii) of this subdivision, and (vi)  
16 instrumentalities exercising essentially public functions; and

17 (b) Public body does not include (i) subcommittees of such bodies  
18 unless a quorum of the public body attends a subcommittee meeting or  
19 unless such subcommittees are holding hearings, making policy, or taking  
20 formal action on behalf of their parent body, except that all meetings of  
21 any subcommittee established under section 81-15,175 are subject to the  
22 Open Meetings Act, ~~and~~ (ii) entities conducting judicial proceedings  
23 unless a court or other judicial body is exercising rulemaking authority,  
24 deliberating, or deciding upon the issuance of administrative orders, and  
25 (iii) the Judicial Resources Commission or subcommittees or subgroups of  
26 the commission;

27 (2) Meeting means all regular, special, or called meetings, formal  
28 or informal, of any public body for the purposes of briefing, discussion  
29 of public business, formation of tentative policy, or the taking of any  
30 action of the public body; and

31 (3) Virtual conferencing means conducting or participating in a

1 meeting electronically or telephonically with interaction among the  
2 participants subject to subsection (2) of section 84-1412.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (v) An educational service unit;

27 (vi) The Educational Service Unit Coordinating Council;

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

31 (viii) A community college board of governors;

- 1 (ix) The Nebraska Brand Committee;
- 2 (x) A local public health department;
- 3 (xi) A metropolitan utilities district;
- 4 (xii) A regional metropolitan transit authority; and
- 5 (xiii) A natural resources district. ~~;~~ and
- 6 ~~(xiv) The Judicial Resources Commission.~~

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

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

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

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

28 (iv) Except as otherwise provided in this subdivision or subsection  
29 (4) of section 79-2204, no more than one-half of the meetings of the  
30 state entities, advisory committees, boards, councils, organizations, or  
31 governing bodies are held by virtual conferencing in a calendar year. In

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

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

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

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

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

31 (7)(a) Notwithstanding subsections (2) and (5) of this section, if

1 an emergency is declared by the Governor pursuant to the Emergency  
2 Management Act as defined in section 81-829.39, a public body the  
3 territorial jurisdiction of which is included in the emergency  
4 declaration, in whole or in part, may hold a meeting by virtual  
5 conferencing during such emergency if the public body gives reasonable  
6 advance publicized notice as described in subsection (1) of this section.  
7 The notice shall include information regarding access for the public and  
8 news media. In addition to any formal action taken pertaining to the  
9 emergency, the public body may hold such meeting for the purpose of  
10 briefing, discussion of public business, formation of tentative policy,  
11 or the taking of any action by the public body.

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

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

23 Sec. 3. Original sections 84-1409 and 84-1411, Revised Statutes  
24 Supplement, 2021, are repealed.