

**Amendment - 1st Reading/2nd House-blue - Requested by: Daniel Zolnikov - (S) Local Government**

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0890.002.001

1 HOUSE BILL NO. 890  
2 INTRODUCED BY B. BARKER, S. KERNS, C. KNUDSEN, T. BROCKMAN, P. GREEN, J. ETCHART  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INCREASED TRANSPARENCY AND  
5 ACCOUNTABILITY IN GOVERNMENT BY REQUIRING CERTAIN GOVERNMENT ENTITIES AND  
6 AUTHORIZING CERTAIN GOVERNMENT ENTITIES TO RECORD THEIR PUBLIC MEETINGS IN AUDIO  
7 AND VIDEO FORMAT; REQUIRING THOSE ENTITIES TO MAKE THE AUDIO AND VIDEO RECORDINGS  
8 AVAILABLE ONLINE FOLLOWING THE PUBLIC MEETING; PROVIDING EXCEPTIONS; PROVIDING AN  
9 APPROPRIATION; SUPERSEDING THE LOCAL GOVERNMENT UNFUNDED MANDATE LAWS;  
10 ~~SUPERSEDING THE LOCAL GOVERNMENT UNFUNDED MANDATE LAWS;~~ AMENDING SECTIONS 2-3-  
11 214 AND 7-1-4141, MCA; AND PROVIDING EFFECTIVE DATES."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **Section 1.** Section 2-3-214, MCA, is amended to read:

16 **"2-3-214. Recording of meetings for certain boards.** (1) Except as provided in 2-3-203 and  
17 subsection (6) of this section, the following boards shall record their public meetings in a an audio and video or  
18 audio-format:

- 19 (a) the board of investments provided for in 2-15-1808;  
20 (b) the public employees' retirement board provided for in 2-15-1009;  
21 (c) the teachers' retirement board provided for in 2-15-1010;  
22 (d) the board of public education provided for in Article X, section 9, of the Montana constitution;

23 and ~~AND~~

- 24 (e) the board of regents of higher education provided for in Article X, section 9, of the Montana  
25 constitution;

26 ~~(2) THE FOLLOWING BOARDS MAY RECORD THEIR PUBLIC MEETINGS IN AN AUDIO AND VIDEO FORMAT:~~

- 27 ~~(f)(A)f~~ the governing board of a county provided for in Title 7, chapter 1, part 21;

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1 ~~(g)(e)(g)~~ the governing board of a municipality provided for in Title 7, chapter 1, part 41;

2 ~~(h)(e)(h)~~ a first class or second class school district board of trustees provided for in Article X,

3 section 8, of the Montana constitution, 20-6-201, and 20-6-301; and

4 ~~(i)(e)(i)~~ a local board of health provided for in Title 50, chapter 2, part 1.

5 (2) ~~All good faith efforts to record meetings in a video format must be made, but if a board is unable to~~  
6 ~~record a meeting in a video format, it must record the meeting in an audio format.~~

7 ~~(3)(2)(3)(2)~~ (a) The boards listed in ~~subsection (1) must~~ subsections (1)(a) through (1)(e) shall  
8 make the audio and video or audio recordings of meetings under subsection (1) publicly available within 1  
9 business day after the meeting through broadcast on the state government broadcasting service as provided in  
10 5-11-1111 or through publication of streaming audio and video or audio content on the respective board's  
11 website.

12 (b) The boards listed in subsections (1)(f) through (1)(i) ~~(2)(A) THROUGH (2)(D) THAT CHOOSE TO~~  
13 MAKE AUDIO AND VIDEO RECORDINGS (1)(f) through (1)(i) shall make the audio and video ~~THOSE the audio and~~  
14 video recordings publicly available within 5 business days after the meeting with a link to the recording on the  
15 respective board's website. If the board does not maintain a website, it shall ~~MAY shall~~ maintain a social media  
16 page and provide a link to the recording on the social media page.

17 ~~(b)(c)~~ The department of administration may develop a memorandum of understanding with the  
18 legislative services division for broadcasting executive branch content on the state government broadcasting  
19 service or live-streaming audio or video executive branch content over the internet.

20 (3) For the boards listed in subsections (1)(f) through (1)(i) ~~(2)(A) THROUGH (2)(D) (1)(f) through~~  
21 (1)(i) that maintain minutes as required by 2-3-212, the audio and video recordings created pursuant to this  
22 section are not required to be the official record of the meeting. If a recording is not designated as the official  
23 record, the recording may be destroyed after being retained online for 1 year.

24 (4) A board is not required to disrupt or reschedule a meeting if there is a technological failure of  
25 the meeting recording. If the recording is not able to be made available online, the board shall prominently post  
26 a notice in the same manner as a notice of a public meeting and shall post a notice at all locations where the  
27 meeting recording links are available. The notice must explain the reason the meeting was not recorded and

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1 describe the steps taken to remedy the failure prior to the next meeting.

2 (5) The requirements ~~PROVISIONS~~ requirements of this section apply only when a board is hearing,  
3 discussing, or acting on a matter over which the board has supervision, control, jurisdiction, or advisory power  
4 at a public meeting as defined in 2-3-202 that has been publicly noticed as required by 2-3-103.

5 (6) The requirements of this section do not apply:

6 (a) to a board listed in subsection (1)(f) ~~(2)(A)~~ (1)(f) when a quorum is incidentally established  
7 solely on the basis of sharing a common office space; or

8 (b) if a board's access to internet services is limited to services operating with a download speed of  
9 5 megabits per second or less and an upload speed of 5 megabits per second or less.

10 (7) Expenditures by a school district on staff, consultants, equipment, software licenses, storage,  
11 or security made to fulfill the requirements of this section qualify as a school facility project under 20-9-525."

12

13 **Section 2.** Section 7-1-4141, MCA, is amended to read:

14 **"7-1-4141. Public meeting required.** (1) All meetings of municipal governing bodies, boards,  
15 authorities, committees, or other entities created by a municipality shall must be open to the public except as  
16 provided in 2-3-203.

17 (2) ~~Appropriate minutes shall~~ Subject to the requirements of 2-3-214, appropriate minutes must be  
18 kept of all public meetings and shall must be made available upon ~~on~~ request to the public for inspection and  
19 copying."

20

21 NEW SECTION. Section 3. Appropriation. There is appropriated \$5,000 from the state general fund  
22 to the department of administration for the biennium beginning July 1, 2023, for the purposes of adopting  
23 administrative rules under 2-17-518 to provide guidance and best practices for the local governments entities in  
24 [section 1(1)(f) through (1)(i)] to create audio and video meeting recordings and store and make the records  
25 publicly available online.

26

27 NEW SECTION. Section 4. — ~~Unfunded mandate laws superseded.~~ The provisions of [this act]

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1 ~~expressly supersede and modify the requirements of 1-2-112 through 1-2-116 as they apply to local~~  
2 ~~government units.~~

3

4 **NEW SECTION. Section 4. Unfunded mandate laws superseded.** The provisions of [this act]  
5 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

6

7 **NEW SECTION. Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
8 effective July 1, 2024.

9 (2) [Section 3] and this section are effective July 1, 2023.

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- END -