

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

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

HB0890.002.004

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~~ except as provided in subsection (7)(a), the governing board of a county provided for in Title 7,

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1 chapter 1, part 21:

2 ~~(g)(B)(g)~~ except as provided in subsection (7)(b), the governing board of a ~~municipality first-~~  
3 class and second-class city provided for in Title 7, chapter 1, part 41;

4 ~~(h)(c)(h)~~ a first class or second class school district board of trustees provided for in Article X,  
5 section 8, of the Montana constitution, 20-6-201, and 20-6-301; and

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

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

9 ~~(3)(2)(3)(2)~~ (a) The boards listed in subsection (1) must ~~subsections (1)(a) through (1)(e) shall~~  
10 make the audio and video or audio recordings of meetings under subsection (1) publicly available within 1  
11 business day after the meeting through broadcast on the state government broadcasting service as provided in  
12 5-11-1111 or through publication of streaming audio and video or audio content on the respective board's  
13 website.

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

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

22 ~~(3)~~ For the boards listed in subsections (1)(f) through (1)(i) ~~(2)(A) THROUGH (2)(D)~~ (1)(f) through  
23 (1)(i) that maintain minutes as required by 2-3-212, the audio and video recordings created pursuant to this  
24 section are not required to be the official record of the meeting. If a recording is not designated as the official  
25 record, the recording may be destroyed after being retained online for 1 year ~~and is not subject to the~~  
26 requirements of Title 2, chapter 6, for public information requests.

27 ~~(4)~~ A board is not required to disrupt or reschedule a meeting if there is a technological failure of

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1 the meeting recording. If the recording is not able to be made available online, the board shall prominently post  
2 a notice in the same manner as a notice of a public meeting and shall post a notice at all locations where the  
3 meeting recording links are available. The notice must explain the reason the meeting was not recorded and  
4 describe the steps taken to remedy the failure prior to the next meeting.

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

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

9 (a) ~~to a board listed in subsection (1)(f) (2)(A)-(1)(f) when a quorum is incidentally established as~~  
10 ~~described in 7-5-2122(4) and (5) solely on the basis of sharing a common office space; or~~

11 ~~(b) if a board's access to internet services is limited to services operating with a download speed of~~  
12 ~~5 megabits per second or less and an upload speed of 5 megabits per second or less.~~

13 (7) The following boards must meet the requirements of this section, except that meetings may be  
14 recorded, retained, and made available in audio format only:

15 (a) the governing board of a county with a population of less than 4,500; and

16 (b) the governing board of a third-class city.

17 ~~(7)(8)~~ Expenditures by a school district on staff, consultants, equipment, software licenses, storage,  
18 or security made to fulfill the requirements of this section qualify as a school facility project under 20-9-525."

19

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

21 **"7-1-4141. Public meeting required.** (1) All meetings of municipal governing bodies, boards,  
22 authorities, committees, or other entities created by a municipality shall must be open to the public except as  
23 provided in 2-3-203.

24 (2) ~~Appropriate minutes shall~~ Subject to the requirements of ~~2-3-214~~ **2-3-212**, appropriate minutes  
25 must be kept of all public meetings and shall must be made available upon ~~on request~~ to the public for  
26 inspection and copying and meet the requirements of 2-3-214(2)(b)."

27

