

HOUSE BILL NO. 890

INTRODUCED BY B. BARKER, S. KERNS, C. KNUDSEN, T. BROCKMAN, P. GREEN, J. ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INCREASED TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT BY REQUIRING CERTAIN GOVERNMENT ENTITIES ~~AND AUTHORIZING CERTAIN GOVERNMENT ENTITIES~~ TO RECORD THEIR PUBLIC MEETINGS IN AUDIO AND VIDEO FORMAT; REQUIRING THOSE ENTITIES TO MAKE THE AUDIO AND VIDEO RECORDINGS AVAILABLE ONLINE FOLLOWING THE PUBLIC MEETING; PROVIDING EXCEPTIONS; PROVIDING AN APPROPRIATION; SUPERSEDING THE LOCAL GOVERNMENT UNFUNDED MANDATE LAWS; ~~SUPERSEDING THE LOCAL GOVERNMENT UNFUNDED MANDATE LAWS;~~ AMENDING SECTIONS 2-3-214 AND 7-1-4141, MCA; AND PROVIDING EFFECTIVE DATES."

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

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

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

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

~~and~~ AND

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

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

~~(f)(A)(F) EXCEPT AS PROVIDED IN SUBSECTION (7)(A), the governing board of a county provided for in Title 7, chapter 1, part 21;~~

1 ~~(g)(B)(G)~~ EXCEPT AS PROVIDED IN SUBSECTION (7)(B), the governing board of a ~~municipality~~-FIRST-  
2 ~~CLASS AND SECOND-CLASS CITY~~ provided for in Title 7, chapter 1, part 41;

3 ~~(h)(C)(H)~~ a ~~first class or second class~~ FIRST-CLASS OR SECOND-CLASS school district board of  
4 trustees provided for in Article X, section 8, of the Montana constitution, 20-6-201, and 20-6-301; and

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

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

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

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

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

21 ~~(3)~~ For the boards listed in subsections ~~(1)(f) through (1)(i) (2)(A) THROUGH (2)(D) (1)(F) THROUGH~~  
22 ~~(1)(I) that maintain minutes as required by 2-3-212, the audio and video recordings created pursuant to this~~  
23 ~~section are not required to be the official record of the meeting. If a recording is not designated as the official~~  
24 ~~record, the recording may be destroyed after being retained online for 1 year AND IS NOT SUBJECT TO THE~~  
25 ~~REQUIREMENTS OF TITLE 2, CHAPTER 6, FOR PUBLIC INFORMATION REQUESTS.~~

26 ~~(4)~~ A board is not required to disrupt or reschedule a meeting if there is a technological failure of  
27 the meeting recording. If the recording is not able to be made available online, the board shall prominently post  
28 a notice in the same manner as a notice of a public meeting and shall post a notice at all locations where the

1 meeting recording links are available. The notice must explain the reason the meeting was not recorded and  
2 describe the steps taken to remedy the failure prior to the next meeting.

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

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

7 (a) to a board listed in subsection (1)(f) (2)(A) (1)(F) when a quorum is incidentally established AS  
8 DESCRIBED IN 7-5-2122(4) AND (5) solely on the basis of sharing a common office space; or

9 (b) if a board's access to internet services is limited to services operating with a download speed of  
10 5 megabits per second or less and an upload speed of 5 megabits per second or less.

11 (7) THE FOLLOWING BOARDS MUST MEET THE REQUIREMENTS OF THIS SECTION, EXCEPT THAT MEETINGS  
12 MAY BE RECORDED, RETAINED, AND MADE AVAILABLE IN AUDIO FORMAT ONLY:

13 (A) THE GOVERNING BOARD OF A COUNTY WITH A POPULATION OF LESS THAN 4,500; AND

14 (B) THE GOVERNING BOARD OF A THIRD-CLASS CITY.

15 (7)(8) Expenditures by a school district on staff, consultants, equipment, software licenses, storage,  
16 or security made to fulfill the requirements of this section qualify as a school facility project under 20-9-525."

17

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

19 **"7-1-4141. Public meeting required.** (1) All meetings of municipal governing bodies, boards,  
20 authorities, committees, or other entities created by a municipality ~~shall~~must be open to the public except as  
21 provided in 2-3-203.

22 (2) ~~Appropriate minutes shall~~ Subject to the requirements of 2-3-214 2-3-212, appropriate minutes  
23 must be kept of all public meetings and ~~shall~~must be made available ~~upon request~~ to the public for  
24 inspection and copying AND MEET THE REQUIREMENTS OF 2-3-214(2)(B)."

25

26 NEW SECTION. Section 3. Appropriation. There is appropriated \$5,000 from the state general fund  
27 to the department of administration for the biennium beginning July 1, 2023, for the purposes of adopting  
28 administrative rules under 2-17-518 to provide guidance and best practices for the local governments entities in

1 [section 1(1)(f) through (1)(i)] to create audio and video meeting recordings and store and make the records  
2 publicly available online.

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 as they apply to local~~  
6 ~~government units.~~

7

8 NEW SECTION. SECTION 4. UNFUNDED MANDATE LAWS SUPERSEDED. THE PROVISIONS OF [THIS ACT]  
9 EXPRESSLY SUPERSEDE AND MODIFY THE REQUIREMENTS OF 1-2-112 THROUGH 1-2-116.

10

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

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

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