

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 24-0041.01 Megan McCall x4215

HOUSE BILL 24-1303

HOUSE SPONSORSHIP

Epps,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE APPLICABILITY OF THE COLORADO OPEN MEETINGS**
102 **LAW TO THE COLORADO GENERAL ASSEMBLY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes several modifications and clarifications to the application of the "Colorado Open Meetings Law" (COML) to any state public body of the general assembly. The bill clarifies that a meeting of any political party caucus, which are the caucuses associated with each major political party in each chamber of the general assembly, is subject to the provisions of the COML if the meeting relates to the public

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

business of the general assembly and excludes any other type of caucus made up of members of the general assembly from the provisions of the COML. Additionally, the bill establishes that serial meetings, which are a series of meetings between 2 or more members of a state public body that individually do not constitute a meeting of a quorum of the body but collectively constitute a meeting of a quorum of the body, are a violation of the COML.

The bill modifies the provisions of the COML concerning written electronic communication between members of a state public body of the general assembly by excluding such communication, regardless of the length of time the communication is available for, from the requirements of the COML unless the communication occurs contemporaneously between a quorum of a state public body of the general assembly during a meeting of the body and is concerning public business and unless the communication constitutes a serial meeting. In both instances, such communication is a violation of the COML. The bill clarifies that written electronic communication may be subject to the provisions of the "Colorado Open Records Act".

The bill also modifies certain requirements for notice and minutes required for meetings of state public bodies of the general assembly. Notice must specify any applicable statutory provisions for the notice. Minutes must include the names of all members of the general assembly in attendance, whether their attendance was in-person, virtual, or a hybrid of both, and note if a recording of the meeting was made.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-6-402, **amend**
3 (1)(d)(II); and **add** (2)(g) as follows:

4 **24-6-402. Meetings - open to public - legislative declaration -**
5 **definitions.** (1) For the purposes of this section:

6 (d) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
7 ~~paragraph (d)~~, SUBSECTION (1)(d)(I) OF THIS SECTION, "state public body"
8 does not include the governing board of an institute charter school that is
9 authorized pursuant to part 5 of article 30.5 of title 22 ~~C.R.S.~~ OR ANY
10 TYPE OF CAUCUS, OTHER THAN A POLITICAL PARTY CAUCUS, AS DEFINED
11 IN SUBSECTION (2)(g)(III)(B) OF THIS SECTION, THAT CONSISTS OF

1 MEMBERS OF THE GENERAL ASSEMBLY UNLESS THE MEMBERS OF SUCH A
2 CAUCUS ARE MEETING AS A QUORUM OF ANOTHER STATE PUBLIC BODY.

3 (2) (g) (I) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

4 (A) THE OPEN MEETINGS LAW OF 1972, AS INITIATED BY THE
5 PEOPLE OF COLORADO, WAS DESIGNED TO GIVE COLORADANS A GREATER
6 OPPORTUNITY TO MEANINGFULLY PARTICIPATE IN GOVERNMENTAL
7 DECISION-MAKING PROCESSES BY BECOMING FULLY INFORMED ON ISSUES
8 OF PUBLIC IMPORTANCE;

9 (B) IT IS THE PUBLIC POLICY OF THE STATE OF COLORADO TO
10 PROMOTE TRANSPARENCY IN THE CONSIDERATION AND TRANSACTION OF
11 PUBLIC BUSINESS;

12 (C) ALL COLORADANS BENEFIT FROM ACCESS TO OBSERVE THE
13 FORMATION OF PUBLIC BUSINESS;

14 (D) AS IS CODIFIED THROUGHOUT COLORADO LAW, BECAUSE THE
15 FORMATION OF PUBLIC POLICY IS PUBLIC BUSINESS, IT MAY NOT BE
16 CONDUCTED IN SECRET;

17 (E) MORE THAN FIFTY YEARS AFTER THE ENACTMENT OF THE
18 COLORADO OPEN MEETINGS LAW, TECHNOLOGICAL ADVANCEMENTS IN
19 MEETING CAPABILITIES, ELECTRONIC COMMUNICATION, AND WORK FLOWS
20 HAVE EVOLVED IN A MANNER THAT IS OUTPACING RELEVANT STATUTES;

21 (F) SIMILARLY, CASE LAW HAS NOT SUFFICIENTLY CLARIFIED THE
22 TYPES OF STATE PUBLIC BODIES WITHIN THE GENERAL ASSEMBLY THAT
23 ARE GOVERNED BY THE OPEN MEETINGS LAW, CREATING LINGERING
24 AMBIGUITIES IN APPLICABILITY THAT NECESSITATE LEGISLATIVE
25 CLARIFICATION;

26 (G) BAD FAITH ATTEMPTS TO CIRCUMVENT THE REQUIREMENTS OF
27 THE OPEN MEETINGS LAW ARE ANTITHETICAL TO CREATING SOUND PUBLIC

1 POLICY AND SUCH EVASIVE EFFORTS THWART GOOD GOVERNANCE;

2 (H) THE GENERAL ASSEMBLY WHOLEHEARTEDLY AFFIRMS THAT
3 ALL COLORADANS ARE EXPECTED TO FOLLOW THE LAWS OF THIS STATE,
4 AND MEMBERS OF THE GENERAL ASSEMBLY HAVE A HEIGHTENED
5 RESPONSIBILITY TO COMPLY WITH THE LAWS PASSED BY THE BODY;

6 (I) IT FURTHER AFFIRMS THAT COMPLIANCE WITH STATE LAW AND
7 ENSURING TRANSPARENCY IN THE TRANSACTION OF PUBLIC BUSINESS ARE
8 NOT AND MUST NEVER BE PARTISAN ISSUES, AND LEGISLATIVE ACTION IS
9 REQUIRED TO PROVIDE WORKABLE RULES WITH CLEAR BOUNDARIES THAT
10 COLORADANS CAN EXPECT ALL STATE PUBLIC BODIES TO FOLLOW; AND

11 (J) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO
12 USHER THE COLORADO OPEN MEETINGS LAW INTO THE PRESENT ERA BY
13 CLARIFYING WHICH BODIES OF THE GENERAL ASSEMBLY ARE STATE PUBLIC
14 BODIES THAT THE OPEN MEETINGS LAW APPLIES TO, STANDARDIZING
15 WORKABLE RULES, AND UPDATING REQUIREMENTS THAT LEGISLATORS
16 WILL ADHERE TO DILIGENTLY.

17 (II) THE PROVISIONS OF THIS SUBSECTION (2)(g) ARE
18 NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION TO THE CONTRARY.

19 (III) (A) A MEETING OF A POLITICAL PARTY CAUCUS IS SUBJECT TO
20 THIS PART 4 IF THE MEETING RELATES TO PUBLIC BUSINESS OF THE
21 GENERAL ASSEMBLY.

22 (B) FOR PURPOSES OF THIS SUBSECTION (2)(g)(III), A "POLITICAL
23 PARTY CAUCUS" MEANS THE CAUCUSES ASSOCIATED WITH EACH MAJOR
24 POLITICAL PARTY IN EACH CHAMBER OF THE GENERAL ASSEMBLY.

25 (IV) (A) SERIAL MEETINGS ARE A VIOLATION OF THIS PART 4.

26 (B) FOR PURPOSES OF THIS SUBSECTION (2)(g)(IV), A "SERIAL
27 MEETING" IS A SERIES OF MEETINGS THAT OCCUR BETWEEN TWO OR MORE

1 MEMBERS OF THE GENERAL ASSEMBLY ABOUT THE SAME OR SIMILAR
2 MATTERS OF PUBLIC BUSINESS THAT INDIVIDUALLY DO NOT CONSTITUTE
3 A MEETING OF A QUORUM OF A STATE PUBLIC BODY OF THE GENERAL
4 ASSEMBLY BUT TAKEN TOGETHER CONSTITUTE A QUORUM OF THE BODY
5 MEETING ABOUT PUBLIC BUSINESS.

6 (V) (A) ELECTRONIC WRITTEN COMMUNICATION EXCHANGED
7 BETWEEN TWO OR MORE MEMBERS OF THE GENERAL ASSEMBLY,
8 REGARDLESS OF THE LENGTH OF TIME SUCH COMMUNICATION IS
9 AVAILABLE, IS NOT A MEETING PURSUANT TO SUBSECTION (1)(b) OF THIS
10 SECTION AND IS THEREFORE NOT SUBJECT TO THE REQUIREMENTS OF THIS
11 PART 4. ALTHOUGH NOT SUBJECT TO THIS PART 4, ELECTRONIC WRITTEN
12 COMMUNICATION EXCHANGED BETWEEN TWO OR MORE MEMBERS OF THE
13 GENERAL ASSEMBLY MAY BE SUBJECT TO DISCLOSURE TO THE EXTENT
14 REQUIRED BY THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
15 72 OF THIS TITLE 24.

16 (B) NOTWITHSTANDING SUBSECTION (2)(g)(V)(A) OF THIS
17 SECTION, ELECTRONIC WRITTEN COMMUNICATION EXCHANGED BETWEEN
18 A QUORUM OF A STATE PUBLIC BODY OF THE GENERAL ASSEMBLY THAT
19 OCCURS CONTEMPORANEOUSLY DURING A MEETING OF THE BODY AND IS
20 CONCERNING PUBLIC BUSINESS IS A VIOLATION OF THIS PART 4.
21 ADDITIONALLY, ELECTRONIC WRITTEN COMMUNICATION THAT WOULD
22 CONSTITUTE A SERIAL MEETING, AS DEFINED IN SUBSECTION (2)(g)(IV)(B)
23 OF THIS SECTION, IS A VIOLATION OF THIS PART 4.

24 (VI) NOTICE OF A MEETING OF A STATE PUBLIC BODY OF THE
25 GENERAL ASSEMBLY, AS REQUIRED BY SUBSECTION (2)(c)(I) OF THIS
26 SECTION, MUST IDENTIFY ANY RELEVANT STATUTORY PROVISIONS
27 GOVERNING THE NOTICE.

1 (VII) MINUTES OF A MEETING OF A STATE PUBLIC BODY OF THE
2 GENERAL ASSEMBLY, AS REQUIRED BY SUBSECTION (2)(d)(I) OF THIS
3 SECTION, MUST:

4 (A) INCLUDE THE NAMES OF ALL MEMBERS OF THE GENERAL
5 ASSEMBLY IN ATTENDANCE;

6 (B) SPECIFY WHETHER ATTENDANCE AT THE MEETING WAS
7 IN-PERSON, VIRTUAL, OR A HYBRID OF BOTH; AND

8 (C) NOTE IF A RECORDING OF THE MEETING WAS MADE.

9 **SECTION 2. Applicability.** This act applies to meetings of a
10 state public body of the general assembly, or its members, held on or after
11 the effective date of this act.

12 **SECTION 3. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.