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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;~~ 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) the governing board of a county provided for in Title 7, chapter 1, part 21;
- (g)(b) the governing board of a municipality provided for in Title 7, chapter 1, part 41;
- (h)(c) a first class or second class school district board of trustees provided for in Article X, section 8,

1 of the Montana constitution, 20-6-201, and 20-6-301; and

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

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

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

10 (b) The boards listed in subsections ~~(1)(f) through (1)(i)(2)(a) through (2)(d) that choose to make~~
11 audio and video recordings shall make ~~the audio and video those~~ recordings publicly available within 5
12 business days after the meeting with a link to the recording on the respective board's website. If the board does
13 not maintain a website, it ~~shall~~ may maintain a social media page and provide a link to the recording on the
14 social media page.

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

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

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

27 (5) The ~~requirements-provisions~~ of this section apply only when a board is hearing, discussing, or
28 acting on a matter over which the board has supervision, control, jurisdiction, or advisory power at a public

1 meeting as defined in 2-3-202 that has been publicly noticed as required by 2-3-103.

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

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

5 (b) if a board's access to internet services is limited to services operating with a download speed of
6 5 megabits per second or less and an upload speed of 5 megabits per second or less.

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

9

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

11 **"7-1-4141. Public meeting required.** (1) All meetings of municipal governing bodies, boards,
12 authorities, committees, or other entities created by a municipality ~~shall~~must be open to the public except as
13 provided in 2-3-203.

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

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

23

24 ~~NEW SECTION. Section 4. Unfunded mandate laws superseded. The provisions of [this act]~~
25 ~~expressly supersede and modify the requirements of 1-2-112 through 1-2-116 as they apply to local~~
26 ~~government units.~~

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28 NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is