

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0481.01 Bob Lackner x4350

HOUSE BILL 21-1025

HOUSE SPONSORSHIP

Arndt, Bird, Cutter, Duran, Gray, Jodeh, Kipp, Lontine, McCluskie, Mullica, Valdez A.

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING A CLARIFICATION UNDER THE COLORADO OPEN**
102 **MEETINGS LAW OF THE REQUIREMENTS GOVERNING**
103 **COMMUNICATION BY ELECTRONIC MAIL THAT DOES NOT RELATE**
104 **TO THE SUBSTANCE OF PUBLIC BUSINESS.**

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>.)

Under current provisions of the Open Meetings Law (OML), if elected officials use electronic mail to discuss pending legislation or other public business among themselves, the electronic mail constitutes a

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

SENATE
2nd Reading Unamended
March 22, 2021

HOUSE
3rd Reading Unamended
March 2, 2021

HOUSE
Amended 2nd Reading
March 1, 2021

meeting that is subject to the OML's requirements. The bill substitutes the word "exchange" for the word "use" in describing the type of electronic mail communication that triggers the application of the OML.

The bill also clarifies existing statutory provisions to specify that electronic mail communication between elected officials that does not relate to the merits or substance of pending legislation or other public business is not a meeting for OML purposes. Under the bill, the type of electronic communication that also does not constitute a meeting for OML purposes includes electronic communication regarding scheduling and availability as well as electronic communication that is sent by an elected official for the purpose of forwarding information, responding to an inquiry from an individual who is not a member of the state or local public body, or posing a question for later discussion by the public body.

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 (2)(d)(III) as follows:

4 **24-6-402. Meetings - open to public - legislative declaration -**
5 **definitions.** (2) (d) (III) If elected officials ~~use~~ EXCHANGE electronic
6 mail to discuss pending legislation or other public business among
7 themselves, the electronic mail ~~shall be~~ IS subject to the requirements of
8 this section. Electronic mail communication ~~among~~ BETWEEN elected
9 officials that does not relate to THE MERITS OR SUBSTANCE OF pending
10 legislation or other public business, INCLUDING ELECTRONIC MAIL
11 COMMUNICATION REGARDING SCHEDULING AND AVAILABILITY OR
12 ELECTRONIC MAIL COMMUNICATION THAT IS SENT BY AN ELECTED
13 OFFICIAL FOR THE PURPOSE OF FORWARDING INFORMATION, RESPONDING
14 TO AN INQUIRY FROM AN INDIVIDUAL WHO IS NOT A MEMBER OF THE STATE
15 OR LOCAL PUBLIC BODY, OR POSING A QUESTION FOR LATER DISCUSSION BY
16 THE PUBLIC BODY, shall not be considered a "meeting" within the meaning
17 of this section. FOR PURPOSES OF THIS SUBSECTION (2)(d)(III), "MERITS OR
18 SUBSTANCE" MEANS ANY DISCUSSION, DEBATE, OR EXCHANGE OF IDEAS,

1 EITHER GENERALLY OR SPECIFICALLY, RELATED TO THE ESSENCE OF ANY
2 PUBLIC POLICY PROPOSITION, SPECIFIC PROPOSAL, OR ANY OTHER MATTER
3 BEING CONSIDERED BY THE GOVERNING ENTITY.

4 **SECTION 2. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2022 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

14 (2) This act applies to electronic mail communication sent on or
15 after the applicable effective date of this act.