

CHAPTER 52

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 13-015

BY SENATOR(S) Roberts, Aguilar, Brophy, Cadman, Crowder, Grantham, Heath, Hill, King, Scheffel;
also REPRESENTATIVE(S) Hamner, Fields, Ginal, Lawrence, Lebsack, Mitsch Bush, Moreno, Murray, Pabon, Rankin,
Rosenthal, Schafer, Singer, Tyler, Wilson, Young.

AN ACT

CONCERNING AUTHORIZATION FOR ELECTRONIC PARTICIPATION IN MEETINGS OF SCHOOL DISTRICT BOARDS OF EDUCATION.

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

SECTION 1. In Colorado Revised Statutes, 22-32-108, **amend** (5) (a); and **add** (7) as follows:

22-32-108. Meetings of the board of education - legislative intent. (5) (a) All regular and special meetings of the board shall be open to the public, but THE BOARD MAY REQUIRE any person who disturbs good order ~~may be required~~ to leave. At any regular or special meeting the board may proceed in executive session. ~~at which~~ Only those persons invited by the board may be present ~~but no final policy decisions shall be made by~~ DURING EXECUTIVE SESSION, AND the board SHALL NOT MAKE FINAL POLICY DECISIONS while in executive session. AT THE SPECIAL MEETING OF THE BOARD CALLED PURSUANT TO SECTION 22-32-104(1), EACH BOARD MEMBER SHALL SIGN AN AFFIDAVIT STATING THAT THE BOARD MEMBER IS AWARE OF AND WILL COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS AND RESTRICTIONS APPLICABLE TO EXECUTIVE SESSIONS OF THE BOARD, AS DESCRIBED IN SECTION 24-6-402, C.R.S., REGARDLESS OF WHETHER THE BOARD MEMBER PARTICIPATES IN THE EXECUTIVE SESSION IN PERSON OR ELECTRONICALLY IN ACCORDANCE WITH THE BOARD POLICY ADOPTED PURSUANT TO SUBSECTION (7) OF THIS SECTION. THE SCHOOL DISTRICT SHALL KEEP AND PRESERVE THE AFFIDAVITS WITH THE MINUTES OF BOARD MEETINGS AND OTHER BOARD DOCUMENTS.

(7) (a) THE BOARD MAY ADOPT A POLICY AUTHORIZING BOARD MEMBERS TO ATTEND AND PARTICIPATE IN REGULAR OR SPECIAL MEETINGS ELECTRONICALLY. AT A MINIMUM, THE POLICY MUST ENSURE THAT A MEETING AT WHICH ONE OR MORE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BOARD MEMBERS PARTICIPATE ELECTRONICALLY IS OPEN TO THE PUBLIC AND THAT THE MEMBERS WHO PARTICIPATE ELECTRONICALLY ARE INCLUDED IN THE RECORDING MADE IN ACCORDANCE WITH PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION. A MEMBER WHO PARTICIPATES ELECTRONICALLY IN CONFORMANCE WITH THE POLICY IS CONSIDERED PRESENT FOR PURPOSES OF SUBSECTIONS (4) AND (6) OF THIS SECTION.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A BOARD THAT ADOPTS A POLICY AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (7) TO ALLOW BOARD MEMBERS TO ATTEND AND PARTICIPATE ELECTRONICALLY IN REGULAR OR SPECIAL BOARD MEETINGS WILL ENSURE THAT THE POLICY:

(I) REQUIRES A QUORUM OF THE BOARD TO BE PHYSICALLY PRESENT IN ONE LOCATION TO CONVENE A MEETING;

(II) ALLOWS MEMBERS OF THE BOARD TO ATTEND THE MEETING ELECTRONICALLY ONLY WHEN THERE ARE EXTENUATING CIRCUMSTANCES, AS DESCRIBED IN THE BOARD'S POLICY;

(III) LEAVES DISCRETION TO THE BOARD TO DECIDE THE MAXIMUM NUMBER OF BOARD MEETINGS THAT A MEMBER MAY ATTEND ELECTRONICALLY BEFORE THE MEMBER'S POSITION IS DECLARED TO BE VACANT;

(IV) REQUIRES THE BOARD TO HAVE TECHNOLOGY IN PLACE THAT WILL ENSURE THAT MEMBERS OF THE PUBLIC CAN HEAR THE COMMENTS MADE BY A BOARD MEMBER WHO ATTENDS THE MEETING ELECTRONICALLY AND THAT THE BOARD MEMBER CAN HEAR COMMENTS MADE BY THE PUBLIC; AND

(V) CLEARLY DESCRIBES THE METHODS BY WHICH A BOARD MEMBER MAY ATTEND A MEETING ELECTRONICALLY, WHICH METHODS MAY INCLUDE ATTENDANCE VIA TELEPHONE, VIDEO CONFERENCING, OR OTHER ELECTRONIC MEANS.

SECTION 2. In Colorado Revised Statutes, 22-5-104, **amend** (5) as follows:

22-5-104. Creation of board of cooperative services - meetings. (5) A board of cooperative services may adopt a policy authorizing ~~the board to conduct its meetings~~ BOARD MEMBERS TO ATTEND AND PARTICIPATE IN REGULAR OR SPECIAL MEETINGS ELECTRONICALLY, INCLUDING PARTICIPATING BY using video ~~teleconferencing~~ OR AUDIO CONFERENCING technology that will allow members of the board to view OR HEAR each other during the meeting and fully participate in the discussion and in voting; except that the board members shall gather in one physical location for at least one of the quarterly meetings held each year. The policy ~~shall~~ MUST address the method by which members of the public ~~shall be~~ ARE allowed access to any video ~~teleconference~~ OR AUDIO CONFERENCE of the board of cooperative services that is conducted pursuant to this subsection (5). In addition, the policy ~~shall~~ MUST specify any agenda items that the board of cooperative services may not consider during any video ~~teleconference~~ OR AUDIO CONFERENCE conducted pursuant to this subsection (5). ~~A board of cooperative services shall not go into executive session during any video teleconference conducted pursuant to this subsection (5).~~ A quorum ~~shall be deemed to exist~~ EXISTS at any video ~~teleconference~~ OR AUDIO CONFERENCE held pursuant to this subsection (5) if the

number of members participating in the video ~~teleconference meeting~~ OR AUDIO CONFERENCE equals the number necessary for a quorum pursuant to subsection (4) of this section.

SECTION 3. In Colorado Revised Statutes, **amend** 22-5-105 as follows:

22-5-105. Organization of board of cooperative services - meetings. (1) At its first meeting, the members of the board of cooperative services elected as set forth in section 22-5-104 shall proceed to elect from their membership a president, a vice-president, a secretary, and a treasurer, whose terms of office shall be for two years, unless their terms of office as board members expire earlier, in which case the officership shall similarly expire. The duties of the president, vice-president, secretary, and treasurer of the board of cooperative services shall be the same as set forth for similar offices of boards of education in sections 22-32-105 to 22-32-107. Similarly, meetings of the board of cooperative services shall be called, held, and conducted as set forth in section 22-32-108; except that, pursuant to section 22-5-104 (5), a board of cooperative services may conduct meetings ELECTRONICALLY, INCLUDING BY using video ~~teleconferencing~~ OR AUDIO CONFERENCING technology.

(2) AT EACH MEETING AT WHICH A BOARD OF COOPERATIVE SERVICES ELECTS OFFICERS, EACH BOARD MEMBER SHALL SIGN AN AFFIDAVIT STATING THAT THE BOARD MEMBER IS AWARE OF AND WILL COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS AND RESTRICTIONS APPLICABLE TO EXECUTIVE SESSIONS OF THE BOARD, AS DESCRIBED IN SECTION 24-6-402, C.R.S., REGARDLESS OF WHETHER THE BOARD MEMBER PARTICIPATES IN THE EXECUTIVE SESSION IN PERSON OR ELECTRONICALLY IN ACCORDANCE WITH A POLICY ADOPTED PURSUANT TO SECTION 22-5-104 (5). THE BOARD OF COOPERATIVE SERVICES SHALL KEEP AND PRESERVE THE AFFIDAVITS WITH THE MINUTES OF BOARD MEETINGS AND OTHER BOARD DOCUMENTS.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 22, 2013