

## 2022 South Dakota Legislature

**House Bill 1255****AMENDMENT 1255B FOR THE HOUSE ENGROSSED BILL**

1 **An Act to clarify certain public meeting requirements.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 1-25-12 be AMENDED:**

4 **1-25-12.** Terms used in this chapter mean:

5 (1) "Political subdivision," any association, authority, board, commission, committee,  
6 council, task force, school district, county, city, town, township, or other local  
7 government entity that is created or appointed by statute, ordinance, or resolution  
8 and is vested with the authority to exercise any sovereign power derived from state  
9 law;

10 (2) "Public body," any political subdivision and the state;

11 (3) "Public comment," information presented by a person, whether a natural person or  
12 an organization by a designated representative of the organization, whether by  
13 audio, video, electronic medium, or other method of communication who is:

14 (a) A taxpayer in the political subdivision or is affected by any present or  
15 proposed action, either directly or indirectly, of the political subdivision; or

16 (b) A parent, guardian, caretaker of a child; disabled person; incompetent  
17 person; or person in need of protection; or

18 (c) A resident of the political subdivision; and

19 (d) Presents relevant, pertinent, and germane information on an item on the  
20 agenda of the notice for the official meeting, or that is of particular concern  
21 as it affects or relates to them or the person that they represent.

22 Public comment may be limited by the public body by their established policy and  
23 procedure to a reasonable time for each person desiring to provide public comment,  
24 but not so limited as to provide minimal or no public comment.

1       (4) "Official meeting," any meeting of a quorum of a public body at which official  
2           business or public policy of that public body is discussed or decided by the public  
3           body, whether in person or by means of teleconference;

4       ~~(4)~~(5) "Teleconference," information exchanged by any audio, video, or electronic  
5           medium, including the internet;

6       ~~(5)~~(6) "State," each board, commission, department, or agency of the State of South  
7           Dakota. The term, state, does not include the Legislature.

8       **Section 2. That § 1-25-1 be AMENDED:**

9           **1-25-1.** The official meetings of the state and its political subdivisions are open to  
10          the public, and the public must be permitted public comment, unless a specific law is cited  
11          by the state or the political subdivision to close the official meeting to the public.

12          It is not an official meeting of one public body if its members provide information  
13          or attend the official meeting of another public body for which the notice requirements of  
14          § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its  
15          members attend a press conference called by a representative of the public body.

16          For any event hosted by a nongovernmental entity to which a quorum of the public  
17          body is invited and public policy may be discussed, but the public body does not control  
18          the agenda, the political subdivision ~~may~~ must post a public notice of a quorum, in lieu of  
19          an agenda. The notice of a quorum shall meet the posting requirements of § 1-25-1.1 or  
20          1-25-1.3 and shall contain, at a minimum, the date, time, and location of the event.

21          The public body shall reserve at every ~~regularly scheduled~~ official meeting a period  
22          for public comment, ~~limited at the public body's discretion, but not so limited as to provide~~  
23          ~~for no public comment.~~ At a minimum, public comment shall be allowed at ~~regularly~~  
24          ~~scheduled~~ all official meetings which are designated as ~~regular~~ meetings by statute, rule,  
25          or ordinance.

26          Public comment is not required but may be permitted at official meetings held  
27          solely for the purpose of an inauguration, swearing in of newly elected officials, or  
28          presentation of an annual report to the governing body regardless of whether ~~or not~~ such  
29          activity takes place at the time and place usually reserved for ~~a regularly scheduled~~ an  
30          official meeting.

31          If a quorum of township supervisors, road district trustees, or trustees for a  
32          municipality of the third class meet solely for purposes of implementing previously  
33          publicly-adopted policy, carrying out ministerial functions of that township, district, or

1 municipality, or undertaking a factual investigation of conditions related to public safety,  
2 the meeting is not subject to the provisions of this chapter.

3 A violation of this section is a Class 2 misdemeanor.

4 **Section 3. That § 1-25-1.1 be AMENDED:**

5 **1-25-1.1.** Each political subdivision shall provide public notice, with proposed  
6 agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-  
7 four hours immediately preceding any official meeting, by posting a copy of the notice,  
8 visible to the public, at the principal office of the political subdivision holding the meeting.  
9 The proposed agenda ~~shall~~ must include the date, time, and location of the meeting and  
10 a period for public comment. The notice ~~shall~~ must also be posted on the political  
11 subdivision's website upon dissemination of the notice, if a website exists. For any special  
12 or rescheduled meeting, the information in the notice ~~shall~~ must be delivered in person,  
13 by mail, by email, or by telephone, to members of the local news media who have  
14 requested notice. For any special or rescheduled meeting, each political subdivision shall  
15 also comply with the public notice provisions of this section for ~~a regular~~ an official meeting  
16 to the extent that circumstances permit. A violation of this section is a Class 2  
17 misdemeanor.

18 **Section 4. That § 1-25-1.3 be AMENDED:**

19 **1-25-1.3.** The state shall provide public notice of a meeting by posting a copy of  
20 the proposed agenda at the principal office of the board, commission, or department  
21 holding the meeting. The proposed agenda ~~shall~~ must include the date, time, and location  
22 of the meeting, a period for public comment, and be visible, readable, and accessible to  
23 the public. The agenda ~~shall~~ must be posted at least seventy-two hours before the meeting  
24 is scheduled to start according to the agenda. The seventy-two hours does not include  
25 Saturday, Sunday, or legal holidays. The notice ~~shall~~ must also be posted on a state  
26 website, designated by the commissioner of the Bureau of Finance and Management. For  
27 any special or rescheduled meeting, the information in the notice ~~shall~~ must be delivered  
28 in person, by mail, by email, or by telephone, to members of the local news media who  
29 have requested notice. For any special or rescheduled meeting, the state ~~shall~~ must also  
30 comply with the public notice provisions of this section for ~~a regular~~ an official meeting to  
31 the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

32 **Section 5. That § 1-25-1.6 be AMENDED:**

1           **1-25-1.6.** At any official meeting conducted by teleconference, there ~~shall~~ must  
2           be provided one or more places at which the public may listen to and ~~participate~~ provide  
3           public comment in the teleconference meeting. For any official meeting held by  
4           teleconference, that has less than a quorum of the members of the public body  
5           participating in the meeting who are present at the location open to the public,  
6           arrangements ~~shall~~ must be provided for the public to listen to the meeting and provide  
7           public comment via telephone or internet. The requirement to provide one or more places  
8           for the public to listen to and provide public comment in the teleconference does not apply  
9           to official meetings closed to the public pursuant to specific law.