

## Recent Developments in Arizona's Open Meeting Law

Insert for May 2008 Open Meeting Law Booklet

August 2010

### Statutory Amendments

*A.R.S §§ 38-431.01 and -431.02 amended by Laws 2010, Ch. 88, §§1,2*

1. Requires the secretary of state, the city or town clerk, or the county clerk to conspicuously post open meeting materials on their website.
2. Requires an elected official or appointed member of a public body to review open meeting law materials at least one day before taking office.
3. Requires the public bodies of Arizona, including public bodies of the state, counties, and cities and towns, to conspicuously post a statement on their website about the physical and electronic locations where all public notices of their meetings will be posted. In the alternative, cities and towns may post a statement on a website of an association of cities and towns stating where all public notices will be posted. The statement must include physical and electronic posting locations.
4. Requires the public bodies of this state to post public meeting notices on their website and give other reasonable notice as is practicable.
5. Allows a public meeting to be held, even if technological failure prevents the posting of public notices online, as long as the public body complies with all other public notice requirements.
6. Allows special taxing districts to conspicuously post a statement on their website about the physical and electronic locations where all public notices of their meetings will be posted and individual meeting notices on their website. In the alternative, they may file a statement with the clerk of the Board of Supervisors stating where all public notices of their meetings will be posted.
7. Reiterates that if an executive session is scheduled, a notice of the executive session must state the provision of law authorizing the session and must provide notice to members of the public body and to the general public.

*Note: The 2010 legislation took effect July 29, 2010.*

*A.R.S. § 38-431.01 amended by Laws 2009, Ch. 27, § 1:*

Provides that internet postings required under subsection E must remain on the website for one year from the date posted.

*A.R.S. § 38-431.02 amended by Laws 2009, Ch. 27, § 2:*

Clarifies that charter schools file their disclosure statement with the Arizona Secretary of State. Provides that the 24 hour notice and agenda requirements include Saturdays so long as the public has access to the primary physical posting location, but excludes Sundays and other holidays as prescribed under A.R.S. § 1-301.

*Note: The 2009 legislation took effect September 30, 2009.*

*A.R.S. § 38-431.09 amended by Laws 2008, Ch. 135, § 1:*

Clarifies that if a member of a public body individually expresses an opinion or discusses an issue with the public, through public broadcast or at a venue other than a public meeting, the member is not in violation of the open meeting law, if the opinion is not directed at another public official and there is no concerted plan to engage in collective deliberation to take legal action.

*Note: The 2008 legislation took effect September 26, 2008.*

#### Attorney General Opinions

*Opinion I08-008:* A board can lawfully hold a virtual meeting, including one comprised of serial communications through the Internet, under the open meeting law. Continuing developments in telecommunications technology offer the promise of widening the public's access to meetings held by public bodies, whether by web-casting meetings or allowing other forms of virtual meetings. This promise, however, is counterbalanced by the potential for abuse or technological obstacles for some citizens to access the meeting. Thus, any public body choosing to use technological means to conduct its meetings must scrupulously comply with the notice and minute-keeping requirements imposed by the open meeting law and must further make all reasonable efforts to facilitate public access to the meeting, whether through explicit instructions on using technology or by providing access to the meeting at the public body's own facilities.