

2020 Regular Session

HOUSE BILL NO. 315

BY REPRESENTATIVE STEFANSKI (BY REQUEST)

PUBLIC MEETINGS: Provides relative to meetings of public bodies

1 AN ACT

2 To amend and reenact R.S. 33:405(C) and 42:13(A)(4), 16, and 19(A)(1)(b)(ii)(aa), (bb),
3 and (cc) and to enact R.S. 42:19(A)(1)(b)(ii)(ee), relative to meetings of public
4 bodies; to provide relative to executive sessions; to provide relative to voting by
5 members of such bodies; to provide relative to notice of and agendas for such
6 meetings; to provide relative to the authority of a public body to take up matters and
7 items at such meetings; to provide relative to public comment on certain motions at
8 such meetings; to provide for the absence of a quorum; to provide relative to the
9 authority of ex officio members; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 33:405(C) is hereby amended and reenacted to read as follows:

12 §405. Meetings of board of aldermen; notice; quorum; compensation; mayor pro
13 tempore duties

14 * * *

15 C. Special meetings of the mayor and board of aldermen may be called by
16 the mayor or a majority of the members of the board. The board shall establish by
17 ordinance how notice of special meetings shall be provided to members of the board
18 and the mayor. The notice for a special meeting shall specify the business to be
19 considered at the special meeting. Public notice shall be given as provided in R.S.
20 42:19. ~~Notwithstanding any other law to the contrary and pursuant to Act No. 131~~

1 ~~of the 2008 Regular Session of the Legislature, an item which is not on the meeting~~
2 ~~agenda may be considered by the mayor and the board of alderman only after a~~
3 ~~unanimous vote of consent by the board and only after announcing the purpose of the~~
4 ~~item and allowing anyone in the audience to speak on the item.~~

5 * * *

6 Section 2. R.S. 42:13(A)(4), 16, and 19(A)(1)(b)(ii)(aa), (bb), and (cc) are hereby
7 amended and reenacted and R.S. 42:19(A)(1)(b)(ii)(ee) is hereby enacted to read as follows:

8 §13. Definitions

9 A. For the purposes of this Chapter:

10 * * *

11 (4) "Quorum" means a simple majority of the total membership of a public
12 body. If a person serves on a public body as an ex officio member by virtue of an
13 office held outside the public body, he is not counted as a member of the body for
14 the purpose of determining the size of a quorum nor does his presence at a meeting
15 count toward a quorum. He may participate in the proceeding and may argue for or
16 against a proposal, but may not make a motion, vote, or determine how the body
17 takes a vote on any matter in a meeting of the body. In the absence of a quorum, any
18 action taken on a matter is null and void and cannot be ratified at a later meeting.

19 * * *

20 §16. Executive Sessions

21 A. A public body may hold executive sessions upon an affirmative vote,
22 taken at an open meeting for which notice has been given pursuant to R.S. 42:19, of
23 two-thirds of its constituent members present. An executive session shall be limited
24 to matters allowed to be exempted from discussion at open meetings by R.S. 42:17;
25 however, no final or binding action shall be taken during an executive session. ~~The~~
26 ~~vote of each member on the question of holding such an executive session and the~~
27 ~~reason for holding such an executive session shall be recorded and entered into the~~
28 ~~minutes of the meeting.~~

1 public body may take any action on an item, the presiding officer or his designee
2 shall read aloud the description of the item except as otherwise provided in Subitem
3 (dd) of this Item.

4 (cc) Upon unanimous approval of the constituent members present and
5 voting at a meeting of a public body, the public body may take up a matter not on the
6 agenda. ~~Any such matter shall be identified in the motion to take up the matter not~~
7 ~~on the agenda~~ Each such matter shall require a separate motion in which the matter
8 is identified with reasonable specificity, including ~~the purpose for the addition to the~~
9 ~~agenda~~ what is to be done, how, and for what purpose, and entered into the minutes
10 of the meeting. A matter may be added to the agenda only if it is proved to the
11 presiding officer that an emergency exists which requires immediate action;
12 otherwise, he shall rule that the motion is out of order. At a meeting of the full body,
13 it shall also be proved to the presiding officer that an unusual and unforeseen
14 occurrence prevented the matter from being included in or added to a committee
15 agenda at its last meeting; otherwise, he shall rule that the motion is out of order. In
16 either case, such a ruling by the presiding officer may only be overturned by
17 unanimous consent of the constituent members present and voting. At a meeting of
18 the full body, no proposed ordinance shall be added to the agenda except in the event
19 of an extraordinary emergency, which shall be limited to natural disaster, threat of
20 epidemic, civil disturbances, suppression of insurrections, repelling of invasions, or
21 other event of similar magnitude. A matter may be added to a special meeting
22 agenda only if the matter involves details of minor importance directly related to an
23 agenda item and there is an emergency involved; otherwise, the presiding officer
24 shall rule the motion out of order. If the presiding officer determines that the matter
25 meets the stated criteria, he shall issue a ruling to that effect which shall be recorded
26 in the minutes of the meeting; otherwise, any action taken on the matter shall be
27 ratified at a regular meeting or at another special meeting called for that purpose.
28 Prior to any vote on the motion, ~~to take up a matter not on the agenda by the public~~
29 ~~body, there shall be~~ the presiding officer shall provide an opportunity for public

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 315 Original

2020 Regular Session

Stefanski

Abstract: Relative to meetings of public bodies, provides relative to executive sessions, quorum, agendas, and the authority of a public body to take up certain items and matters at such meetings.

Present law relative to meetings of public bodies defines "quorum" as a simple majority of the total membership of a public body. Proposed law provides that in the absence of a quorum any action taken on a matter is null and void and cannot be ratified at a later meeting.

Proposed law provides that a member who serves in an ex officio capacity by virtue of an office held outside of the public body is not counted as a member of the body in determining the size of quorum or in determining whether quorum is present at a meeting, nor does he have any voting rights.

Present law provides that a public body may hold executive sessions upon an affirmative vote of two thirds of its constituent members present. Provides that an executive session shall be limited to matters allowed to be exempted from discussion at open meetings by present law; however, provides that no final or binding action shall be taken during an executive session. Provides that nothing in present law shall be construed to require that any meeting be closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of present law. Proposed law retains present law.

Present law provides that the vote of each member on the question of holding such an executive session and the reason for holding such an executive session shall be recorded and entered into the minutes of the meeting. Proposed law provides that there shall be a separate motion for each agenda item to be discussed in executive session and that the motion shall include the reason for doing so. Provides that prior to any vote on the motion the presiding officer shall provide an opportunity for public comment. Provides that the presiding officer may set a reasonable time limit for the comments and may limit the number of speakers. Provides that a person may be required to complete a comment card before being allowed to speak. Provides that to decide the motion, the roll shall be called and the response of each constituent member shall be recorded.

Present law provides relative to notice of meetings of public bodies other than legislative bodies. Provides procedures and requirements for giving such notice. Requires written public notice of a meeting no later than 24 hours before the meeting. Requires such notice to include the agenda of the meeting. Prohibits changes to the agenda less than 24 hours prior to the meeting. Requires each item on the agenda to be listed separately and described with reasonable specificity. Requires the presiding officer or his designee to read aloud the description of an item prior to any action on the item by the body.

Proposed law provides that if a public body has established committees, a matter that was not considered by such a committee at its last meeting may be included in an agenda of the full body only if the presiding officer of the full body decides that it is not a potentially controversial matter. Provides that an appointment or reappointment is controversial.

Present law provides that upon unanimous approval of the members present at a meeting of a public body, the public body may take up a matter not on the agenda. Requires any such matter to be identified in the motion to take up the matter with reasonable specificity,

including the purpose for the addition to the agenda, and entered into the minutes of the meeting. Provides that prior to any vote by the public body on the motion to take up a matter not on the agenda, there shall be an opportunity for public comment on any such motion. Prohibits the public body from using its authority to take up a matter not on the agenda as a subterfuge to defeat the purposes of provisions of present law relative to open meetings.

Proposed law provides that a matter may be added to the agenda only if it is proved to the presiding officer that an emergency exists which requires immediate action. Provides that at a meeting of the full body, it shall also be proved to the presiding officer that an unusual and unforeseen occurrence prevented the matter from being included in or added to a committee agenda at its last meeting. In either case, such a ruling by the presiding officer may only be overturned by unanimous consent of the constituent members present and voting. At a meeting of the full body, no proposed ordinance shall be added to the agenda except in the event of an extraordinary emergency, which is limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, repelling of invasions, or other matters of similar magnitude. A matter may be added to a special meeting agenda only if the matter involves details of very minor importance directly related to an agenda item and there is an emergency. Provides that prior to any vote on the motion the presiding officer shall provide an opportunity for public comment. Provides that the presiding officer may set a reasonable time limit for the comments and may limit the number of speakers. Provides that a person may be required to complete a comment card before being allowed to speak. Provides that to decide the motion, the roll shall be called and the response of each constituent member shall be recorded. Provides that any action taken on a matter that was not properly added to the agenda is null and void and may not be ratified at a later meeting.

Proposed law provides that upon unanimous approval, the location of an item on the agenda may be changed. Provides that each relocation requires a separate motion which shall include the reason for the relocation. Provides that prior to any vote on the motion, the presiding officer shall provide an opportunity for public comment. Provides that the presiding officer may set a reasonable time limit for the comments and may limit the number of speakers. Provides that a person may be required to complete a comment card before being allowed to speak. Provides that to decide the motion, the roll shall be called and the response of each constituent member shall be recorded. Provides that the public body shall not use its authority to relocate an item on the agenda as a subterfuge to defeat the purposes of present law.

Present law authorizes municipalities governed by the Lawrason Act at a special meeting to consider an item that is not on the agenda if the addition is approved by unanimous vote, the purpose of the item is announced, and public comment is allowed. Proposed law repeals present law and is replaced as outlined in the first proposed law on this page.

(Amends R.S. 33:405(C) and R.S. 42:13(A)(4), 16, and 19(A)(1)(b)(ii)(aa), (bb), and (cc); Adds R.S. 42:19(A)(1)(b)(ii)(ee))