



Montana Association of Counties

Serving Montana Counties Since 1909

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RECORDING OPEN MEETINGS

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PURPOSE

To give county elected officials an outline of the requirements regarding recording open meetings as a result of HB 890.

WHAT ARE THE RECORDING REQUIREMENTS?

- All governing boards of counties and local boards of health must make either an audio or video recording of all public meetings as defined in 2-3-202 MCA (a meeting as the convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.)
- In counties with a population of less than 4,500 only an audio recording is required for their board of county commissioner meetings, otherwise, a video recording is required.
- The recordings must be made publicly available within five business days after the meeting with a link on the board's website. If the board does not maintain a website, the board must maintain a social media page and provide a link to the recording on your social media page.
- The recordings are not considered the official record of the meeting and may be destroyed after being retained online for one year.
- A board is not required to disrupt or reschedule a meeting if there is a technological failure of the recording but must post a notice explaining the reason the meeting was not recorded and the steps that will be taken to remedy the problem prior to the next meeting.

WHEN DOES THIS TAKE EFFECT?

- July 1, 2024.

IS THERE ANY FURTHER GUIDANCE?

- Sorta. The Department of Administration drafted rules pertaining to local government public meeting recordings but the text of the rule states, "This rule provides technical advice but is not binding on local government entities." This nonbinding advice can be found here – <https://rules.mt.gov/gateway/ShowNoticeFile.asp?TID=12261>
- If the draft rules do not change, they are simply "advice." Each county has discretion in how it will

comply with the statute. Given the lack of detail or official direction in the legislation or rules, each county will need to determine the best method of recording and uploading meetings. The legislative testimony indicated that this should be a simple process for the local governments at minimal cost which lends to the argument that a recording of any sort that captures the minimal intent of the statute and legislative testimony is adequate. That is good news and bad news in that it appears to give latitude for compliance but in the same breath also opens up counties to legal action. Please defer to your county attorney for final determination of your ultimate plan.

GENERAL MEETING GUIDANCE

- Many of your scheduled agenda items will not take the entire allotted time. If an agenda item ends and you are not conducting business (listening, discussing, etc.), recess the meeting until the next agenda item commences when you would then reconvene.
- For those of you who meet daily, it is recommended, but not required, that you adjourn at the end of each day triggering the recording upload timeline of 5 business days. For those of you who meet for a week or multiple days during one week and then intermittently the remainder of the month the following is recommended: Recess at the end of each day of the multiple day stretch and adjourn at the end of the week or the last meeting day. By recessing, you trigger the upload timeline at the end of the consecutive day stretch. Convene and adjourn each day that is stand alone.

WHAT IF I HAVE MORE QUESTIONS?

- Please also see our Open Meeting White Paper available [here](https://www.mtcounties.org/wp-content/uploads/resources/model-policies-regulations-codes/open-meeting-white-paper.pdf) (<https://www.mtcounties.org/wp-content/uploads/resources/model-policies-regulations-codes/open-meeting-white-paper.pdf>).
- Contact us!