

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 379

BY WAYS AND MEANS COMMITTEE

AN ACT

1  
2 RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT; AMENDING SECTION 74-101,  
3 IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 74-202, IDAHO  
4 CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 74-202, IDAHO CODE,  
5 AS ENACTED BY SECTION 3, CHAPTER 142, LAWS OF 2018, TO REVISE A DEFINI-  
6 TION.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 74-101, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 74-101. DEFINITIONS. As used in this chapter:

11 (1) "Applicant" means any person formally seeking a paid or volunteer  
12 position with a public agency. "Applicant" does not include any person seek-  
13 ing appointment to a position normally filled by election.

14 (2) "Copy" means transcribing by handwriting, photocopying, duplicat-  
15 ing machine and reproducing by any other means so long as the public record is  
16 not altered or damaged.

17 (3) "Custodian" means the person or persons having personal custody and  
18 control of the public records in question.

19 (4) "Independent public body corporate and politic" means the Idaho  
20 housing and finance association as created in chapter 62, title 67, Idaho  
21 Code.

22 (5) "Inspect" means the right to listen, view and make notes of public  
23 records as long as the public record is not altered or damaged.

24 (6) "Investigatory record" means information with respect to an iden-  
25 tifiable person, group of persons or entities compiled by a public agency or  
26 independent public body corporate and politic pursuant to its statutory au-  
27 thority in the course of investigating a specific act, omission, failure to  
28 act, or other conduct over which the public agency or independent public body  
29 corporate and politic has regulatory authority or law enforcement author-  
30 ity.

31 (7) "Law enforcement agency" means any state or local agency given law  
32 enforcement powers or which has authority to investigate, enforce, prose-  
33 cute or punish violations of state or federal criminal statutes, ordinances  
34 or regulations.

35 (8) "Local agency" means a county, city, school district, municipal  
36 corporation, district, public health district, political subdivision, or  
37 any agency thereof, or any committee of a local agency, or any combination  
38 thereof.

39 (9) "Person" means any natural person, corporation, partnership, firm,  
40 association, joint venture, state or local agency or any other recognized  
41 legal entity.

1 (10) "Prisoner" means a person who has been convicted of a crime and is  
 2 either incarcerated or on parole for that crime or who is being held in cus-  
 3 tody for trial or sentencing.

4 (11) "Public agency" means any state or local agency as defined in this  
 5 section.

6 (12) "Public official" means any state, county, local district, inde-  
 7 pendent public body corporate and politic or governmental official or em-  
 8 ployee, whether elected, appointed or hired.

9 (13) "Public record" includes, but is not limited to, any writing con-  
 10 taining information relating to the conduct or administration of the pub-  
 11 lic's business prepared, owned, used or retained by any state agency, in-  
 12 dependent public body corporate and politic or local agency regardless of  
 13 physical form or characteristics. Provided, however, that personal notes  
 14 created by a public official solely for his own use shall not be a public  
 15 record as long as such personal notes are not shared with any other person or  
 16 entity.

17 (14) "Requester" means the person requesting examination and/or copy-  
 18 ing of public records pursuant to section 74-102, Idaho Code.

19 (15) "State agency" means every state officer, department, division,  
 20 bureau, commission and board or any committee of a state agency including  
 21 those in the legislative or judicial branch, except the state militia and  
 22 the Idaho state historical society library and archives. Solely for pur-  
 23 poses of this chapter, any entity that a state agency has co-applied or oth-  
 24 erwise partnered with in applying for or receiving any federal funds shall be  
 25 considered a state agency in actions directly related to the expenditure or  
 26 granting of those federal funds if the expenditure or granting of those fed-  
 27 eral funds is placed solely within the discretion of the entity.

28 (16) "Writing" includes, but is not limited to, handwriting, typewrit-  
 29 ing, printing, photostating, photographing and every means of recording,  
 30 including letters, words, pictures, sounds or symbols or combination  
 31 thereof, and all papers, maps, magnetic or paper tapes, photographic films  
 32 and prints, magnetic or punched cards, discs, drums or other documents.

33 SECTION 2. That Section 74-202, Idaho Code, be, and the same is hereby  
 34 amended to read as follows:

35 74-202. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

36 (1) "Decision" means any determination, action, vote or final dispo-  
 37 sition upon a motion, proposal, resolution, order, ordinance or measure on  
 38 which a vote of a governing body is required, at any meeting at which a quorum  
 39 is present, but shall not include those ministerial or administrative ac-  
 40 tions necessary to carry out a decision previously adopted in a meeting held  
 41 in compliance with this chapter.

42 (2) "Deliberation" means the receipt or exchange of information or  
 43 opinion relating to a decision, but shall not include informal or impromptu  
 44 discussions of a general nature that do not specifically relate to a matter  
 45 then pending before the public agency for decision.

46 (3) "Executive session" means any meeting or part of a meeting of a gov-  
 47 erning body that is closed to any persons for deliberation on certain mat-  
 48 ters.

49 (4) "Public agency" means:

1 (a) Any state board, committee, council, commission, department,  
 2 authority, educational institution or other state agency created by  
 3 or pursuant to statute or executive order of the governor, other than  
 4 courts and their agencies and divisions, and the judicial council, and  
 5 the district magistrates commission. Solely for purposes of this chap-  
 6 ter, any entity that a state agency has co-applied or otherwise part-  
 7 nered with in applying for or receiving any federal funds shall be con-  
 8 sidered a state agency in actions directly related to the expenditure or  
 9 granting of those federal funds if the expenditure or granting of those  
 10 federal funds is placed solely within the discretion of the entity;

11 (b) Any regional board, commission, department or authority created by  
 12 or pursuant to statute;

13 (c) Any county, city, school district, special district, or other mu-  
 14 nicipal corporation or political subdivision of the state of Idaho;

15 (d) Any subagency of a public agency created by or pursuant to statute  
 16 or executive order of the governor, ordinance, or other legislative  
 17 act; and

18 (e) Notwithstanding the language of this subsection, the cybersecurity  
 19 task force or a committee awarding the Idaho medal of achievement shall  
 20 not constitute a public agency.

21 (5) "Governing body" means the members of any public agency that con-  
 22 sists of two (2) or more members, with the authority to make decisions for or  
 23 recommendations to a public agency regarding any matter.

24 (6) "Meeting" means the convening of a governing body of a public agency  
 25 to make a decision or to deliberate toward a decision on any matter.

26 (a) "Regular meeting" means the convening of a governing body of a pub-  
 27 lic agency on the date fixed by law or rule, to conduct the business of  
 28 the agency.

29 (b) "Special meeting" is a convening of the governing body of a public  
 30 agency pursuant to a special call for the conduct of business as speci-  
 31 fied in the call.

32 SECTION 3. That Section 74-202, Idaho Code, as enacted by Section 3,  
 33 Chapter 142, Laws of 2018, be, and the same is hereby amended to read as fol-  
 34 lows:

35 74-202. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

36 (1) "Decision" means any determination, action, vote or final dispo-  
 37 sition upon a motion, proposal, resolution, order, ordinance or measure on  
 38 which a vote of a governing body is required, at any meeting at which a quorum  
 39 is present, but shall not include those ministerial or administrative ac-  
 40 tions necessary to carry out a decision previously adopted in a meeting held  
 41 in compliance with this chapter.

42 (2) "Deliberation" means the receipt or exchange of information or  
 43 opinion relating to a decision, but shall not include informal or impromptu  
 44 discussions of a general nature that do not specifically relate to a matter  
 45 then pending before the public agency for decision.

46 (3) "Executive session" means any meeting or part of a meeting of a gov-  
 47 erning body that is closed to any persons for deliberation on certain mat-  
 48 ters.

- 1 (4) "Public agency" means:  
2 (a) Any state board, commission, department, authority, educational  
3 institution or other state agency created by or pursuant to statute,  
4 other than courts and their agencies and divisions, and the judicial  
5 council, and the district magistrates commission. Solely for purposes  
6 of this chapter, any entity that a state agency has co-applied or oth-  
7 erwise partnered with in applying for or receiving any federal funds  
8 shall be considered a state agency in actions directly related to the  
9 expenditure or granting of those federal funds if the expenditure or  
10 granting of those federal funds is placed solely within the discretion  
11 of the entity;  
12 (b) Any regional board, commission, department or authority created by  
13 or pursuant to statute;  
14 (c) Any county, city, school district, special district, or other mu-  
15 nicipal corporation or political subdivision of the state of Idaho; and  
16 (d) Any subagency of a public agency created by or pursuant to statute,  
17 ordinance, or other legislative act.  
18 (5) "Governing body" means the members of any public agency that con-  
19 sists of two (2) or more members, with the authority to make decisions for or  
20 recommendations to a public agency regarding any matter.  
21 (6) "Meeting" means the convening of a governing body of a public agency  
22 to make a decision or to deliberate toward a decision on any matter.  
23 (a) "Regular meeting" means the convening of a governing body of a pub-  
24 lic agency on the date fixed by law or rule, to conduct the business of  
25 the agency.  
26 (b) "Special meeting" is a convening of the governing body of a public  
27 agency pursuant to a special call for the conduct of business as speci-  
28 fied in the call.