

Deletions = ~~double-strike-through~~Additions = double-underline

2/17/2016 11:51 AM

**AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE RIGHT TO
KNOW ADVISORY COMMITTEE CONCERNING REMOTE PARTICIPATION IN
PUBLIC PROCEEDINGS**

Amend the bill in Section A-1 to read:

§403-A. Public proceedings through other means of communication

1. Requirements. A body, ~~except a publicly elected body,~~ subject to this subchapter may conduct a public proceeding through telephonic, video, electronic or other similar means of communication only if the following requirements are met:

A. The body has adopted a written *remote participation* policy that authorizes a member of the body who is not physically present to participate in a public proceeding. The policy must establish criteria that must be met before a member may participate when not physically present. The policy may not allow a member who is not physically present to participate in an executive session.

The remote participation policy governing a publicly-elected body is valid only if the electorate represented by the body votes to approve the policy or votes to authorize the body to adopt a policy. For a publicly-elected body that represents more than one municipality the policy or the authorization to adopt a policy must be adopted through a referendum vote.

B. Notice of the public proceeding has been given in accordance with section 406;

C. A quorum of the body is assembled physically at the location identified in the notice required by section 406, except that a body may convene a public proceeding by telephonic, video, electronic or other similar means of communication without a quorum if:

(1) An emergency has been declared in accordance with Title 22, section 802, subsection 2-A or Title 37-B, section 742;

(2) The public proceeding is necessary to take action to address the emergency; and

(3) The body otherwise complies with the provisions of this section to the extent practicable based on the circumstances of the emergency;

D. Each member of the body who is participating in the public proceeding is able to hear all the other members and speak to all the other members during the public proceeding, and members of the public attending the public proceeding in the location identified in the notice required by section 406 are able to hear all members participating from other locations, *or, upon request, by accommodations for persons who are deaf or hard of hearing, all members of the body and the public are afforded an ability to participate equivalent to hearing.*

PROPOSED COMMITTEE AMENDMENT TO LD 1586

Proposed by Senator Johnson

Deletions = ~~double strike through~~

Additions = double underline

2/17/2016 11:51 AM

E. Each member of the body who is not physically present and who is participating through telephonic, video, electronic or other similar means of communication identifies the persons present at the location from which the member is participating;

F. All votes taken during the public proceeding are taken by roll call vote; and

G. Each member of the body who is not physically present and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding any documents or other materials that will be discussed or presented at the public proceeding, with substantially the same content as those documents actually discussed or presented. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate the action of a body in a public proceeding.

2. Voting; quasi-judicial proceeding. A member of a body who is not physically present and who is participating in a quasi-judicial public proceeding through telephonic, video, electronic or other similar means of communication may not vote on any issue concerning testimony or other evidence provided during the quasi-judicial public proceeding. For the purposes of this subsection, "quasi-judicial proceeding" means a proceeding in which the governing body is obligated to objectively determine facts and draw conclusions from the facts so as to provide the basis of an official action when that action may affect the legal rights, duties or privileges of specific persons.

3. Annual meeting. If a body conducts one or more public proceedings pursuant to this section, it shall also hold at least one public proceeding annually during which members of the body in attendance are physically assembled at one location and where no members of the body participate by telephonic, video, electronic or other similar means of communication from a different location.

(No change to Part B)

SUMMARY

This amendment authorizes a public-elected body to allow remote participation of its members only if the electorate the body represents either approves a remote participation policy or authorizes the body to adopt a remote participation policy. If the body covers more than one municipality, the adoption or approval must be done through a referendum vote.

This amendment also provides for accommodations for person who are deaf or hard of hearing when members of a body are participating remotely.