

# MAINE STATE LEGISLATURE

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Date: 4/3/14

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JUDICIARY

L.D. 1809  
(Filing No. H-798)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
126TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1300, L.D. 1809, Bill, "An Act Concerning Meetings of Public Bodies Using Communications Technology"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Meetings of Boards of Trustees and Governing Bodies of Quasi-municipal Corporations and Districts That Provide Water, Sewer and Sanitary Services'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 1 MRSA §403-A is enacted to read:

**§403-A. Public proceedings using communications technology by governing bodies of quasi-municipal corporations and districts**

**1. Application.** This section applies to public proceedings conducted by a governing body, including a board of trustees, of a quasi-municipal corporation or district, as defined in Title 30-A, section 2351, subsection 4, that provides water, sewer or sanitary services.

**2. Authorized participation.** A governing body may conduct a public proceeding during which one or more members of the governing body participate in the discussion or transaction of public or governmental business when not physically present only if all of the following requirements are met:

A. The governing body has adopted a written policy that authorizes a member of the governing body who is not physically present to participate in a public proceeding through combined audio and video means of communication in accordance with this section. 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;

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

**COMMITTEE AMENDMENT**

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1 C. Except as provided in subsection 4, a quorum of the governing body is assembled  
2 physically at the location identified in the notice required by section 406;

3 D. Each member of the governing body participating in the public proceeding is able  
4 to see and hear all the other members and speak to all the other members during the  
5 public proceeding, and members of the public attending the public proceeding in the  
6 location identified in the notice required by section 406 are able to see and hear all  
7 members participating from other locations. If documents or materials that include  
8 pictures, graphs, illustrations or other information presented in a visual format are  
9 part of the discussion, either the communications technology used must ensure that  
10 all members can see the documents and materials while the documents and materials  
11 are being discussed or the documents and materials must be provided to all members  
12 not physically present before or during the proceeding;

13 E. Each member who is not physically present and who is participating through  
14 combined audio and video means of communication identifies the persons present at  
15 the location from which the member is participating;

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

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

25 **3. Voting; quasi-judicial proceeding.** A member of a governing body who is not  
26 physically present and who is participating through combined audio and video means of  
27 communication may vote in all proceedings other than quasi-judicial proceedings. A  
28 member of a governing body who is not physically present may participate in a  
29 quasi-judicial proceeding through combined audio and video means of communication,  
30 but may not vote on any issue concerning testimony or other evidence provided during  
31 the quasi-judicial proceeding. For the purposes of this subsection, "quasi-judicial  
32 proceeding" means a proceeding in which the governing body is obligated to objectively  
33 determine facts and draw conclusions from the facts so as to provide the basis of an  
34 official action when that action may affect the legal rights, duties or privileges of specific  
35 persons.

36 **4. Exception to quorum requirement.** A governing body may convene a public  
37 proceeding by combined audio and video means of communication without a quorum  
38 under subsection 2, paragraph C if:

39 A. An emergency has been declared in accordance with Title 22, section 802,  
40 subsection 2-A or Title 37-B, section 742 and:

41 (1) The public proceeding is necessary to take action to address the emergency;  
42 and

# COMMITTEE AMENDMENT

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

B. The governing body is expressly authorized by its governing statute to convene a public proceeding by combined audio and video means of communication with less than a quorum of the body assembled physically at the location identified in the notice required by section 406.

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

**SUMMARY**

This amendment is the majority report of the Joint Standing Committee on Judiciary.

This amendment limits the application of the bill to the governing bodies of quasi-municipal corporations and districts, as defined in the Maine Revised Statutes, Title 30-A, section 2351, subsection 4, that provide water, sewer or sanitary services if the governing bodies adopt policies that meet specified requirements.

This amendment limits the type of communication technology that may be used to participate remotely to combined audio and video means of communication that permit all the members of the governing body and the public that are in attendance to see and hear all the members that are participating.

This amendment prohibits a member who is not physically present from participating in an executive session.

This amendment clarifies that a member who is not physically present may participate and vote remotely, but a member who is not physically present may not vote in a quasi-judicial proceeding on any issue concerning testimony or other evidence provided during the quasi-judicial public proceeding. The amendment defines "quasi-judicial proceeding."

**COMMITTEE AMENDMENT**