

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1809

H.P. 1300

House of Representatives, March 11, 2014

An Act Concerning Meetings of Public Bodies Using Communications Technology

Reported by Representative PRIEST of Brunswick for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

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

3 **§403-A. Public proceedings through communications technology**

4 **1. Elected membership; prohibition.** A public body composed of elected members
5 of a municipality, quasi-municipal entity or school administrative unit may not conduct a
6 public proceeding in which a member participates in the discussion or transaction of
7 public or governmental business when that member is not physically present at the
8 location of the public proceeding.

9 **2. Authorized participation.** A public body, except a public body composed of
10 elected members, of a municipality, quasi-municipal entity or school administrative unit
11 may conduct a public proceeding during which one or more members of the body
12 participate in the discussion or transaction of public or governmental business through
13 telephonic, video, electronic or other similar means of communication only if all of the
14 following requirements are met:

15 A. The body has adopted a written policy that authorizes a member of the body who
16 is not physically present to participate in a public proceeding through telephonic,
17 video, electronic or other similar means of communication in accordance with this
18 section. The policy must establish criteria that must be met before a member may
19 participate when not physically present. If the policy allows a member who is not
20 physically present to participate in an executive session, the policy must specifically
21 address the circumstances under which the executive session may be conducted to
22 ensure privacy;

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

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

26 D. Each member of the body participating in the public proceeding is able to hear all
27 the other members and speak to all the other members during the public proceeding,
28 and members of the public attending the public proceeding in the location identified
29 in the notice required by section 406 are able to hear all members participating from
30 other locations. If documents or materials that include pictures, graphs, illustrations
31 or other information presented in a visual format are part of the discussion, either the
32 communications technology used must ensure that all members can see the
33 documents and materials while the documents and materials are being discussed or
34 the documents and materials must be provided to all members not physically present
35 before or during the proceeding;

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

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

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

9 **3. Voting; judicial or quasi-judicial proceeding.** A member of a body who is not
10 physically present and who is participating in a judicial or quasi-judicial public
11 proceeding through telephonic, video, electronic or other similar means of
12 communication may not vote on any issue concerning testimony or other evidence
13 provided during the judicial or quasi-judicial public proceeding.

14 **4. Exception to quorum requirement.** A body may convene a public proceeding
15 by telephonic, video, electronic or other similar means of communication without a
16 quorum under subsection 2, paragraph C if:

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

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

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

23 B. The body is expressly authorized by its governing statute to convene a public
24 proceeding by telephonic, video, electronic or other similar means of communication
25 with less than a quorum of the body assembled physically at the location identified in
26 the notice required by section 406.

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

32 SUMMARY

33 This bill prohibits the use of telephonic, video, electronic or other similar means of
34 communication to conduct public proceedings of elected public bodies of municipalities,
35 quasi-municipal entities and school administrative units. It allows nonelected public
36 bodies of municipalities, quasi-municipalities and school administrative units to do so
37 only if specific requirements are met. Subject to the listed requirements, a body may
38 conduct a public proceeding during which a member of the body participates in the
39 discussion or transaction of public or governmental business through telephonic, video,
40 electronic or other similar means of communication.

1 1. The body must adopt a policy that authorizes such participation and establishes the
2 criteria that must be met under which a member may participate when not physically
3 present. If the policy authorizes such participation in an executive session, the policy
4 must spell out the circumstances for conducting the executive session that will ensure the
5 required privacy.

6 2. Notice of any proceeding must be provided in accordance with the Freedom of
7 Access Act.

8 3. A quorum of the body must be physically present, except that under certain
9 circumstances a body may convene a public proceeding by telephonic, video, electronic
10 or other similar means of communication without a quorum assembled physically at one
11 location. One such circumstance is if the body's governing statute authorizes a meeting
12 using the remote-access technology with less than a quorum physically present in the
13 location listed in the meeting notice.

14 4. Members of the body must be able to hear and speak to each other during the
15 proceeding. If discussions are based on documents or materials that are in visual format,
16 the technology used must also allow all members to see the materials unless the
17 documents and materials are provided before or during the proceedings to all members
18 not physically present.

19 5. A member who is participating remotely must identify the persons present in the
20 location from which the member is participating.

21 6. All votes taken during the public proceeding must be taken by roll call vote.

22 7. Each member who is not physically present and who is participating through
23 telephonic, video, electronic or other similar means of communication must have
24 received, prior to the proceeding, any documents or other materials that will be discussed
25 at the public proceeding, with substantially the same content as those documents actually
26 presented.

27 8. A member of a body who is not physically present may not vote on any issue
28 concerning testimony or other evidence provided during the public proceeding if it is a
29 judicial or quasi-judicial proceeding.

30 9. If a body conducts one or more public proceedings using the remote-access
31 technology, the body must also hold at least one public proceeding annually during which
32 all members of the body in attendance are physically assembled at one location.