

MAINE STATE LEGISLATURE

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L.D. 32

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Date: 6/15/21

(Filing No. S-36)

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JUDICIARY

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STATE OF MAINE

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SENATE

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130TH LEGISLATURE

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FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "A" to S.P. 40, L.D. 32, "An Act Regarding Remote Participation in Public Proceedings"

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

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

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§403-B. Remote participation in public proceedings

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1. Remote participation. This section governs remote methods of participation in public proceedings of certain public bodies. For the purposes of this section, "remote methods" means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Public proceedings may not be conducted by text-only means such as e-mail, text messages or chat functions.

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2. Requirements. A public body subject to this subchapter may allow members of the body to participate in a public proceeding using remote methods only under the following conditions:

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A. After notice and hearing the body has adopted a written policy governing the conditions upon which members of the body and the public may participate in a public proceeding of that body by remote methods;

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B. The policy adopted pursuant to paragraph A must provide that members of the body are expected to be physically present for public proceedings except when being physically present is not practicable. Circumstances in which physical presence for one or more members is not practicable may include:

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(1) The existence of an emergency or urgent issue that requires the public body to meet by remote methods;

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(2) Illness, other physical condition or temporary absence from the jurisdiction of the body that causes a member of the body to face significant difficulties traveling to and attending in person at the location in the notice under section 406;

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COMMITTEE AMENDMENT

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(3) With respect to a public body with statewide membership, significant distance a member must travel to be physically present at the location in the notice under section 406; and

(4) The area of the public body's jurisdiction includes geographic characteristics that impede or slow travel, including but not limited to islands not connected by bridges;

C. The policy adopted pursuant to paragraph A must provide members of the public a meaningful opportunity to attend by remote methods when members of the body participate by remote methods, and reasonable accommodations may be provided when necessary to provide access to individuals with disabilities;

D. If the body allows or is required to provide an opportunity for public input during the proceeding, an effective means of communication between the members of the body and the public must be provided;

E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend by remote methods pursuant to paragraphs C and D, the notice must include the means by which members of the public may access the proceeding using remote methods. The notice must also identify a location for members of the public to attend in person. The body may not determine that public attendance at a proceeding will be limited solely to remote methods except under the conditions in paragraph B, subparagraph (1);

F. A member of the body who participates in a public proceeding by remote methods is present for purposes of a quorum and voting;

G. All votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by the other members of the public body and the public; and

H. The public body must make all documents and other materials considered by the public body available, electronically or otherwise, to the public who attend by remote methods to the same extent customarily available to members of the public who attend the proceedings of the public body in person, as long as additional costs are not incurred by the public body.

3. Remote participation not permitted. This section does not authorize town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings held pursuant to Title 20-A, section 1482-A to be conducted using remote methods.

4. Application. This section does not apply to:

A. The Legislature; or

B. A public body to which specific statutory provisions for remote participation apply.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. It provides authorization for any public body subject to the Freedom of Access Act to conduct public proceedings by remote methods if the

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 40, L.D. 32 (S-3a)

1 public body adopts a policy that meets certain requirements. "Remote methods" means
2 telephonic or video technology allowing simultaneous reception of information and may
3 include other means when such means are necessary to provide reasonable accommodation
4 to a person with a disability. The amendment specifically prohibits the conducting of
5 public proceedings by text-only means, including but not limited to e-mail, text messages
6 and chat functions.

7 The policy governing remote participation must be adopted by the public body only
8 after notice and hearing. The policy establishes the conditions upon which members of the
9 body and the public may participate in a public proceeding of that body by remote methods.

10 The policy must provide that members of the body are expected to be physically present
11 for public proceedings except when being physically present is not practicable. The policy
12 must provide members of the public a meaningful opportunity to attend by remote methods
13 when members of the body participate by remote methods, and reasonable
14 accommodations may be provided when necessary to provide access to individuals with
15 disabilities. If the body allows or is required to provide an opportunity for public input
16 during the proceeding, an effective means of communication between the members of the
17 body and the public must be provided.

18 Notice of the proceeding must be provided as required in the Freedom of Access Act.
19 When the public may attend by remote methods, the notice must include the means by
20 which members of the public may access the proceeding using remote methods. The notice
21 must also identify a location for members of the public to attend in person. The body may
22 not determine that public attendance at a proceeding will be limited solely to remote
23 methods except when an emergency or urgent issue exists that requires the public body to
24 meet by remote methods.

25 A member of the body who participates in a public proceeding by remote methods is
26 present for purposes of a quorum and voting.

27 All votes taken during a public proceeding using remote methods must be taken by roll
28 call vote that can be seen and heard if using video technology, and heard if using only audio
29 technology, by the other members of the public body and the public.

30 The public body must make all documents and other materials considered by the public
31 body available, electronically or otherwise, to the public who attend by remote methods to
32 the same extent customarily available to members of the public who attend the proceedings
33 of the public body in person, as long as additional costs are not incurred by the public body.

34 Town meetings and regional school unit budget meetings may not be conducted using
35 remote methods.

36 These provisions do not apply to the Legislature or to any public bodies whose
37 proceedings are specifically addressed by statute.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 32

LR 325(02)

An Act Regarding Remote Participation in Public Proceedings

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-3A)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to any board, commission, agency or authority of the State, municipality, county, school, the University of Maine System, the Maine Maritime Academy or the Maine Community College System that choose adopt a policy that allows members to participate remotely in a public proceeding is expected to be minor.