

1 HB361  
2 216054-2  
3 By Representative Chestnut  
4 RFD: State Government  
5 First Read: 16-FEB-22

8 SYNOPSIS: Under existing law, members of certain  
9 governmental bodies may participate in a meeting of  
10 that body by certain electronic means. Members  
11 participating by electronic means do not count  
12 towards a quorum and may not participate in  
13 executive sessions.

14 This bill would provide that members  
15 participating by electronic means are present for  
16 all purposes so long as a certain number of members  
17 are physically present, and would remove a  
18 prohibition on participation in executive sessions  
19 by members through electronic means.

20 This bill would also provide that members of  
21 the public be allowed to participate in a meeting  
22 held by electronic means.

23 This bill would make nonsubstantive,  
24 technical revisions to update the existing code  
25 language to current style.

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to meetings of governmental bodies; to  
5 amend Section 36-25A-5.1, Code of Alabama 1975, relating to  
6 meetings of governmental bodies by electronic means; to  
7 further provide for the participation by members of a  
8 governmental body at a meeting held by electronic means; to  
9 provide further for public participation at a meeting held by  
10 electronic means; and to make nonsubstantive, technical  
11 revisions to update the existing code language to current  
12 style.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 36-25A-5.1, Code of Alabama 1975,  
15 is amended to read as follows:

16 "§36-25A-5.1.

17 "(a) (1) Except as provided in subsection (d),  
18 members of a governmental body as defined in Section 36-25A-2,  
19 that is comprised of members from two or more counties, may  
20 participate in a meeting of that governmental body by means of  
21 telephone conference, video conference, or other similar  
22 communications equipment which allows all persons  
23 participating in the meeting to hear each other at the same  
24 time. Participation by ~~such~~ these electronic means shall  
25 constitute presence in person at the meeting for all purposes,  
26 ~~except for the establishment of a quorum; provided, that at~~  
27 least three members, or a majority of a quorum of members,

1 whichever is less, are physically present at the physical  
2 meeting location required by subsection (b).

3 "(2) If a member is participating in a meeting of a  
4 governmental body by electronic means as authorized in this  
5 section, the governmental body shall ensure that means of  
6 access to the electronic communication is published in the  
7 same manner as the notice of the meeting is published pursuant  
8 to this chapter.

9 "(3) The means of access shall allow members of the  
10 public to hear the meeting. A body is not required to allow  
11 the public to participate by electronic means to any extent  
12 beyond being able to hear the meeting.

13 "(b) Every meeting shall have one physical location  
14 available for persons wishing to be physically present, at  
15 which any interested member of the public shall be able to  
16 hear all persons who are participating remotely, ~~and that~~ and  
17 to participate in the meeting to the same extent as they would  
18 be able to participate at a physical meeting of the same  
19 character. That physical location shall be published in a  
20 manner consistent with this chapter.

21 "(c) (1) ~~Utilization~~ Except as specified in this  
22 section, use of electronic communication shall be done in a  
23 manner that complies with this chapter ~~and allowing~~ .

24 "(2) Allowing members of the public to be present  
25 and participate at the physical location required by  
26 subsection (b) is sufficient for compliance with this chapter  
27 and; ~~provided, that~~ the electronic communication ~~does not have~~

1 ~~to be otherwise~~ is made available to members of the public as  
2 required by subsection (a).

3 "(d) The members of the following governmental  
4 bodies are prohibited from participating in meetings and  
5 deliberation via electronic communications as otherwise  
6 authorized by this section:

7 "(1) The Board of Pardons and Paroles,~~the.~~

8 "(2) The Public Service Commission,~~standing.~~

9 "(3) Standing committees of the Legislature while  
10 the Legislature is in session,~~a.~~

11 "(4) A governing board taking any action under the  
12 Students First Act of 2011,~~any.~~

13 "(5) Any state board or agency acting in any quasi  
14 judicial capacity involving employment actions or the  
15 promulgation of rules pursuant to statutory authority,~~any.~~

16 "(6) Any state board, agency, or other governmental  
17 body conducting a hearing which could result in loss of  
18 licensure or professional censure,~~and the.~~

19 "(7) The Alabama Ethics Commission.

20 "~~(e) Any other provision of this section to the~~  
21 ~~contrary notwithstanding, a majority of a quorum of the~~  
22 ~~members participating in any given meeting shall be physically~~  
23 ~~present at the location noticed and called for the meeting in~~  
24 ~~order to conduct any business or deliberation, and only those~~  
25 ~~members who are physically present may participate in an~~  
26 ~~executive session of the governmental body.~~

1           "~~(f)~~(e) Any vote taken at a meeting utilizing the  
2 equipment contemplated by subsection (a) shall be taken as a  
3 roll call vote that allows each participant to vote  
4 individually in a manner audible to all persons participating  
5 or present at the physical location provided for in subsection  
6 (b).

7           "~~(g) No member utilizing this section~~ (f) A member  
8 participating in a meeting by means provided by this section  
9 ~~shall~~ may not claim any form of reimbursement for expenses  
10 relating to that meeting, including mileage and per diem.

11           "(g) If the electronic communications fail or are in  
12 any way interrupted during a meeting otherwise in compliance  
13 with this chapter, that failure shall not be grounds to  
14 challenge any action taken during the meeting.

15           "(h) Any governmental body with specific statutory  
16 or constitutional authority to meet via electronic means under  
17 a procedure different than that set forth in this section may  
18 continue to operate under the requirements of that specific  
19 authority or may adopt a resolution opting to come under the  
20 requirements of this section."

21           Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.