

SENATE No. 2024

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to modernize participation in public meetings.

PETITION OF:

Table with 3 columns: NAME, DISTRICT/ADDRESS, and Date. Lists 18 petitioners including Jason M. Lewis, Angelo J. Puppolo, Jr., Joanne M. Comerford, etc.

SENATE No. 2024

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 2024) of Jason M. Lewis, Angelo J. Puppolo, Jr., Joanne M. Comerford, Brian W. Murray and other members of the General Court for legislation to modernize participation in public meetings. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2082 OF 2021-2022.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

An Act to modernize participation in public meetings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 18 of chapter 30A of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting the following:-

3 “Hybrid meeting”, a meeting conducted simultaneously in a public place that is open and
4 physically accessible to the public and via remote access.

5 “Remote access”, access through the internet, video conferencing or other video
6 technology that allows a person to view and, when permitted or required, to participate in a
7 meeting of a public body.

8 SECTION 2. Said chapter 30A is hereby further amended by striking out section 20 and
9 inserting in place thereof the following sections:

10 Section 20. (a) All meetings of a public body shall be open to the public, except for a
11 meeting of a public body in executive session as provided in section 21. All meetings of a public
12 body shall be conducted as hybrid meetings, except for public bodies operating under a hardship
13 waiver, as provided in section 20B.

14 (b) Except in an emergency, in addition to any notice otherwise required by law, a public
15 body shall post notice of every meeting at least 48 hours prior to the meeting, excluding
16 Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon
17 as reasonably possible prior to the meeting. Notice shall be printed in a legible, easily
18 understandable format and shall contain the date, time and place of the meeting, information
19 about how to participate via remote access, and a listing of topics that the chair reasonably
20 anticipates will be discussed at the meeting.

21 (c) Such notice shall be filed and posted in the following manner:

22 (i) For meetings of a local public body, notice shall be filed with the municipal clerk, who
23 shall post it to the municipal website and in a manner conspicuously visible to the public at all
24 hours in or on the municipal building in which the clerk's office is located.

25 (ii) For meetings of a regional or district public body, notice shall be filed and posted in
26 each city or town within the region or district in the manner prescribed for local public bodies
27 and notice shall be posted on the regional or district public body's website.

28 (iii) For meetings of a regional school district, the secretary of the regional school district
29 committee shall be considered to be its clerk and shall file notice with the clerk of each city or
30 town within the district and each city or town clerk shall post the notice in the manner prescribed
31 for local public bodies, and notice shall be posted on the regional school district's website.

32 (iv) For meetings of a county public body, notice shall be filed in the office of the county
33 commissioners for the county and shall be posted on the county public body's website, and in a
34 manner conspicuously visible to the public at all hours in the places as the county commissioners
35 shall designate for the purpose.

36 (v) For meetings of a state public body, notice shall be filed with the attorney general by
37 posting on a website under the procedures established for this purpose and a duplicate copy of
38 the notice shall be filed with the regulations division in the state secretary's office and posted on
39 the state public body's website, or the website of its parent agency.

40 (d) A local public body, other than a local commission on disability, shall have at least
41 one-third of its members physically present at all meetings. A member of the public body may
42 participate in any meeting via remote access if such member is unable to be physically present at
43 the public meeting location due to extraordinary circumstances, including but not limited to
44 disability, illness, or caregiving responsibilities.

45 A state public body shall have at least one of its members physically present at all
46 meetings.

47 (e) Members participating remotely shall not be deemed absent for the purposes of
48 section 23D of chapter 39, shall count towards the quorum, and shall be permitted to vote
49 remotely.

50 (f) All meetings of a state public body shall be video recorded by the body, and the
51 recording shall be posted on the website of the public body within 10 business days after the
52 meeting.

53 After notifying the chair, any person may make a video or audio recording of an open
54 session of a meeting of a public body, or may transmit the meeting through any medium, subject
55 to reasonable requirements of the chair as to the number, placement and operation of equipment
56 used so as not to interfere with the conduct of the meeting.

57 At the beginning of the meeting, the chair shall inform other attendees of any recordings.

58 (g) No person shall address a meeting of a public body without permission of the chair,
59 and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings
60 of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt
61 the proceedings, the chair may order the person to withdraw from the meeting and, if the person
62 does not withdraw, the chair may authorize a constable or other officer to remove the person
63 from the meeting or may cause the person's remote access to be restricted. The chair must
64 exercise the powers conferred by this section in conformity with constitutional free speech
65 protections. A public body shall not restrict public comment based on its content or viewpoint;
66 provided, however, that a public body may limit public comment if the public comment: (i)
67 pertains to matters outside the jurisdiction of the public body; (ii) does not pertain to the specific
68 topics to which a particular meeting or portion of a meeting is dedicated; or (iii) is speech that
69 clearly qualifies as a true threat or incitement to imminent unlawful conduct under constitutional
70 standards.

71 (h) Within 2 weeks of qualification for office, all persons serving on a public body shall
72 certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting
73 law, regulations promulgated under section 25 and a copy of the educational materials prepared
74 by the attorney general explaining the open meeting law and its application under section 19.
75 Unless otherwise directed or approved by the attorney general, the appointing authority, city or
76 town clerk or the executive director or other appropriate administrator of a state or regional body,
77 or their designees, shall obtain certification from each person upon entering service and shall
78 retain it subject to the applicable records retention schedule where the body maintains its official
79 records. The certification shall be evidence that the member of a public body has read and
80 understands the requirements of the open meeting law and the consequences of violating it.

81 (i) Nothing in this section shall relieve a public body of the obligation to provide
82 reasonable accommodations to persons with disabilities under the Americans with Disabilities
83 Act.

84 Section 20A.

85 Remote access shall be subject to the following rules:

86 (i) A public body shall provide remote access without any paid subscription, toll, or
87 similar charge.

88 (ii) All public bodies shall ensure remote access to meetings is accessible to persons with
89 disabilities and provided in such a manner as to ensure effective communication and equal
90 opportunity to participate to such persons. Consistent with the Americans with Disabilities Act,
91 public bodies shall provide reasonable accommodations to persons with disabilities remotely
92 accessing a meeting.

93 (iii) Members of a public body, whether participating in person at a physical meeting
94 location or via remote access, shall participate in the same manner for the duration of that
95 meeting.

96 (iv) The public body shall ensure that all its members can be heard and seen by members
97 of the public while the meeting is being conducted.

98 (v) Members of the public participating via remote access shall maintain their video
99 cameras on when offering public comment.

100 Section 20B.

101 (a) Public bodies that are open to the public shall be required to conduct all meetings as
102 hybrid meetings, except as provided below.

103 (b) A municipality may request a hardship waiver from the attorney general's office on
104 behalf of any non-elected local public body or bodies that for reasons of economic hardship and
105 despite best efforts are unable to conduct hybrid meetings.

106 A public body that is granted a hardship waiver shall be relieved of the obligation to
107 conduct hybrid meetings and shall instead conduct its meetings via remote access.

108 If the attorney general's office determines that for reasons of economic hardship and
109 despite best efforts the public body is unable to conduct its meetings via remote access, the
110 public body shall conduct its meetings in a public place that is open and physically accessible to
111 the public.

112 A hardship waiver may be renewed annually, upon a written finding by the attorney
113 general's office; provided, however, that the municipality demonstrates substantial efforts to

114 secure funding to enhance its technical and staffing capacity to conduct its meetings in a hybrid
115 manner, including applying to the municipal hybrid meeting grant program established in section
116 12 of chapter 7D, or otherwise to overcome the reasons for requesting the waiver.

117 The attorney general's office may not issue or renew a hardship waiver to be effective
118 beyond January 1, 2030.

119 (c) A hardship waiver may not be issued to a state public body.

120 SECTION 3. Chapter 29 of the General Laws, as appearing in the 2020 Official Edition,
121 is hereby amended by inserting after Section QQQQQ the following section:-

122 Section 2RRRRR. There shall be established and set upon the books of the
123 commonwealth a separate fund to be known as the Municipal Hybrid Meeting Trust Fund that
124 shall be administered by the office of municipal and school technology within the executive
125 office of information technology services and security for the purpose of assisting municipalities
126 expand their remote and hybrid meeting capabilities for non-elected municipal bodies so that
127 they may better serve their constituents. The fund shall be credited with appropriations, bond
128 proceeds or other money authorized or transferred by the general court and specifically
129 designated to be credited to the fund, and any interest earned on such money. Revenues
130 deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the
131 General Fund and shall be available for expenditure in the following fiscal year. No expenditure
132 made from the fund shall cause the fund to become deficient.

133 SECTION 4. Chapter 7D of the General Laws is hereby amended by inserting the
134 following new section:-

135 Section 12. (a) There shall be a competitive grant program developed and administered
136 by the office of municipal and school technology within the executive office of information
137 technology services and security for the implementation by municipalities of hybrid meetings for
138 non-elected municipal public bodies. This grant program shall provide funds for the acquisition
139 and adoption of technology to enable hybrid meetings and technical assistance to support hybrid
140 meeting implementation. The commissioner may expend funds for this grant program from the
141 Municipal Hybrid Meeting Trust Fund established in section 2RRRRR of chapter 29, hereinafter
142 the trust fund.

143 (b) All grant applications shall include but not be limited to: (i) a plan for enabling all
144 non-elected public bodies in the municipality to conduct hybrid meetings, including technology
145 and meeting space upgrades and technical assistance; and (ii) a preliminary estimate of the cost
146 of the plan.

147 (c) In approving grant applications, the office of municipal and school technology may
148 give preference to applications from municipalities in rural areas and gateway cities.

149 (d) A municipality that is awarded funds pursuant to this section shall submit to the office
150 of municipal and school technology a report describing how such funds have been expended, the
151 municipality's implementation of hybrid meetings across non-elected public bodies, and any
152 remaining gaps in implementation of hybrid meetings.

153 (e) Money in the trust fund may be used to support the replication and the dissemination
154 of best practices generated through the competitive grant program.

155 (f) Annually, not later than December 1, the office of municipal and school technology
156 shall submit a report detailing expenditures from the trust fund to the clerks of the senate and

157 house of representatives, the chairs of the senate and house committees on ways and means and
158 the chairs of the joint committee on state administration and regulatory oversight.

159 SECTION 4. Section 20B of chapter 30A is hereby repealed.

160 SECTION 5. Section 20 of chapter 30A is hereby amended by striking out subsection (a)
161 and inserting in place thereof:-

162 (a) Except as provided in section 21, all meetings of a public body shall be open to the
163 public, except for a meeting of a public body in executive session as provided in section 21. All
164 meetings of a public body shall be conducted as hybrid meetings.

165 SECTION 6. Sections 4 and 5 shall take effect on January 1, 2030.

166 SECTION 7. Sections 1 and 2 shall take effect 180 days after the effective date of this
167 act.