

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2428 Session of 2022

INTRODUCED BY KNOWLES, JAMES, FREEMAN AND SAPPEY, MARCH 16, 2022

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 24, 2022

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, in open meetings, further providing
3 for definitions, for minutes of meetings, public records and
4 recording of meetings, for public notice, for public
5 participation and for use of equipment during meetings.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The definition of "public notice" in section 703
9 of Title 65 of the Pennsylvania Consolidated Statutes is amended
10 and the section is amended by adding definitions to read:

11 § 703. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Authorized telecommunications device." A device which
17 permits, at a minimum, audio communication between individuals.

18 "Broadcast." The transmission of a meeting via radio,
19 television, telecommunications, Internet website or any other

1 electronic means, which is intended to be received by or
2 available to the public. The term shall not include the
3 recording of a meeting.

4 * * *

5 "EXIGENT CIRCUMSTANCES." EMERGENCY OR EXTRAORDINARY <--
6 SITUATIONS OR CONDITIONS RESULTING IN A BOARD OR COUNCIL OF A
7 POLITICAL SUBDIVISION OR OF AN AUTHORITY CREATED BY A POLITICAL
8 SUBDIVISION BEING UNABLE TO PROVIDE FOR A PUBLIC MEETING IN A
9 PHYSICAL LOCATION DUE TO FACTORS BEYOND THE BOARD'S, COUNCIL'S
10 OR AUTHORITY'S CONTROL PRESENTING A SUBSTANTIAL DANGER TO THE
11 HEALTH, SAFETY OR WELFARE OF MEMBERS OF THE PUBLIC OR MEMBERS OF
12 THE BOARD, COUNCIL OR AUTHORITY. THE TERM INCLUDES, BUT IS NOT
13 LIMITED TO, A DISASTER AND DISASTER EMERGENCY AS DEFINED IN 35
14 PA.C.S. § 7102 (RELATING TO DEFINITIONS).

15 * * *

16 "Public notice."

17 (1) For a meeting:

18 (i) Publication of notice of the place, date and
19 time of a meeting in a newspaper of general circulation,
20 as defined by 45 Pa.C.S. § 101 (relating to definitions),
21 which is published and circulated in the political
22 subdivision where the meeting will be held, or in a
23 newspaper of general circulation which has a bona fide
24 paid circulation in the political subdivision equal to or
25 greater than any newspaper published in the political
26 subdivision.

27 (ii) Posting a notice of the place, date [and],
28 time, method of broadcast and acceptance of remote public
29 comment, if applicable, of a meeting prominently at the
30 principal office of the agency holding the meeting or at

1 the public building in which the meeting is to be held.

2 (iii) Giving notice to parties under section 709(c)
3 (relating to public notice).

4 (2) For a recessed or reconvened meeting:

5 (i) Posting a notice of the place, date [and], time,
6 method of broadcast and acceptance of remote public
7 comment, if applicable, of the meeting prominently at the
8 principal office of the agency holding the meeting or at
9 the public building in which the meeting is to be held.

10 (ii) Giving notice to parties under section 709(c).

11 * * *

12 Section 2. Section 706 of Title 65 is amended by adding a
13 paragraph to read:

14 § 706. Minutes of meetings, public records and recording of
15 meetings.

16 Written minutes shall be kept of all open meetings of
17 agencies. The minutes shall include:

18 * * *

19 (5) A statement disclosing the availability of a
20 broadcast of a meeting and the acceptance of remote public
21 comment, if applicable. If a recording of the meeting is
22 available on an Internet website, the statement shall include
23 the web address or uniform resource locator to the recording
24 of the meeting at the time when the minutes of the meeting
25 are approved.

26 Section 3. Section 709(c.1)(1) of Title 65 is amended by
27 adding subparagraphs to read:

28 § 709. Public notice.

29 * * *

30 (c.1) Notification of agency business to be considered.--

1 (1) In addition to any public notice required under this
2 section, an agency shall provide the following notification
3 of agency business to be considered at a meeting as follows:

4 * * *

5 (iv) If the agency broadcasts the meeting, the
6 agenda shall include information on the method of
7 broadcast.

8 (v) If the agency adopts rules for remote public
9 comment under section 711(d) (relating to use of
10 equipment during meetings), the agenda shall include
11 information on where the rules for remote public comment
12 can be accessed.

13 * * *

14 Section 4. Sections 710.1 and 711 of Title 65 are amended by
15 adding subsections to read:

16 § 710.1. Public participation.

17 * * *

18 (e) Remote public comment.--If a board or council of a
19 political subdivision or of an authority created by a political
20 subdivision adopts rules for remote public comment under section
21 711(d) (relating to use of equipment during meetings), in the
22 event that remote public comment cannot be received by the
23 manner advertised or by a contingency plan under section 711(d)
24 (2) due to an Internet service outage or other technological
25 failure of the board or council of a political subdivision or of
26 the authority created by a political subdivision, official
27 action of a matter shall be postponed until the next advertised
28 meeting.

29 § 711. Use of equipment during meetings.

30 * * *

1 (c) Local broadcast rules.--

2 (1) A board or council of a political subdivision or of
3 an authority created by a political subdivision may adopt
4 rules governing the broadcast of a meeting.

5 (2) Except as provided under paragraph (3), a board or
6 council of a political subdivision or of an authority created
7 by a political subdivision broadcasting a meeting using an
8 Internet website, mobile application or social media platform
9 shall broadcast the entire meeting except for an executive
10 session.

11 (3) A recording or broadcast of a meeting of the board
12 or council of a political subdivision or of an authority
13 created by a political subdivision may not be muted or edited
14 unless it is essential to exclude speech at the meeting that
15 is not protected by the First Amendment of the Constitution
16 of the United States or the speech may expose the board or
17 council to legal liability if the speech is not excluded.
18 Speech excluded under this paragraph shall be explained in
19 the minutes of the meeting. If a recording or broadcast of a
20 meeting is edited, the board or council shall retain an
21 archived copy of the unedited recording or broadcast for no
22 less than one year following the date of the meeting.

23 (d) Remote public comment.--

24 (1) The board or council of a political subdivision or
25 of an authority created by a political subdivision may adopt
26 rules permitting the acceptance of remote public comment by
27 the use of an authorized telecommunications device. Nothing
28 in this paragraph shall be construed to authorize the board
29 or council holding a meeting at a physical location to
30 exclude public participation under section 710.1 at the

1 physical location of the meeting.

2 (2) A rule under this subsection may include:

3 (i) A requirement that an individual seeking to
4 offer public comment must demonstrate that the individual
5 is entitled to offer public comment under section
6 710.1(a).

7 (ii) A process to allow an individual seeking to be
8 recognized for remote public comment to be placed on a
9 list or in a virtual queue.

10 (iii) A contingency plan to allow remote public
11 comment to be received during a meeting by telephone
12 audible throughout the meeting location by amplification
13 only if:

14 (A) the advertised authorized telecommunications
15 device is unable to be utilized by the political
16 subdivision or authority during the meeting because
17 of an Internet service outage or other technological
18 failure impacting the device's operation at the
19 meeting location; and

20 (B) a notice placed on the posted meeting agenda
21 provides contact information for the telephone.

22 (3) A board or council of a political subdivision or of
23 an authority created by a political subdivision that adopts
24 local broadcast rules under subsection (c) may not mandate
25 the exclusive use of remote comment, unless the meeting is
26 held due to EXIGENT CIRCUMSTANCES OR DURING a declaration of <--
27 disaster emergency under 35 Pa.C.S. § 7301(c) (relating to
28 general authority of Governor) or 7501(b) (relating to
29 general authority of political subdivisions).

30 (4) Nothing in this section shall be construed to

1 authorize the acceptance of written comments through a social
2 media platform, email or web platform as a substitute for
3 public comment under section 710.1.

4 (5) Nothing in this section shall be construed to
5 require a board or council of a political subdivision or of
6 an authority created by a political subdivision to accept
7 remote public comment as part of the local broadcast rules
8 under subsection (c).

9 Section 5. This act shall take effect in 60 days.