

2023 -- H 5722 SUBSTITUTE A

LC001842/SUB A/3

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT-- OPEN MEETINGS

Introduced By: Representatives Caldwell, Shanley, and Lima

Date Introduced: February 17, 2023

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-46-5 of the General Laws in Chapter 42-46 entitled "Open
2 Meetings" is hereby amended to read as follows:

3 **42-46-5. Purposes for which meeting may be closed — Use of electronic**
4 **communications — Judicial proceedings — Disruptive conduct.**

5 (a) A public body may hold a meeting closed to the public pursuant to § 42-46-4 for one
6 or more of the following purposes:

7 (1) Any discussions of the job performance, character, or physical or mental health of a
8 person or persons provided that the person or persons affected shall have been notified in advance
9 in writing and advised that they may require that the discussion be held at an open meeting.

10 Failure to provide notification shall render any action taken against the person or persons
11 affected null and void. Before going into a closed meeting pursuant to this subsection, the public
12 body shall state for the record that any persons to be discussed have been so notified and this
13 statement shall be noted in the minutes of the meeting.

14 (2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to
15 collective bargaining or litigation.

16 (3) Discussion regarding the matter of security including, but not limited to, the deployment
17 of security personnel or devices.

18 (4) Any investigative proceedings regarding allegations of misconduct, either civil or
19 criminal.

1 (5) Any discussions or considerations related to the acquisition or lease of real property for
2 public purposes, or of the disposition of publicly held property wherein advanced public
3 information would be detrimental to the interest of the public.

4 (6) Any discussions related to or concerning a prospective business or industry locating in
5 the state of Rhode Island when an open meeting would have a detrimental effect on the interest of
6 the public.

7 (7) A matter related to the question of the investment of public funds where the premature
8 disclosure would adversely affect the public interest. Public funds shall include any investment
9 plan or matter related thereto, including, but not limited to, state lottery plans for new promotions.

10 (8) Any executive sessions of a local school committee exclusively for the purposes: (i) Of
11 conducting student disciplinary hearings; or (ii) Of reviewing other matters that relate to the privacy
12 of students and their records, including all hearings of the various juvenile hearing boards of any
13 municipality; provided, however, that any affected student shall have been notified in advance in
14 writing and advised that he or she may require that the discussion be held in an open meeting.

15 Failure to provide notification shall render any action taken against the student or students
16 affected null and void. Before going into a closed meeting pursuant to this subsection, the public
17 body shall state for the record that any students to be discussed have been so notified and this
18 statement shall be noted in the minutes of the meeting.

19 (9) Any hearings on, or discussions of, a grievance filed pursuant to a collective bargaining
20 agreement.

21 (10) Any discussion of the personal finances of a prospective donor to a library.

22 (b) No meeting of members of a public body or use of electronic communication, including
23 telephonic communication and telephone conferencing, shall be used to circumvent the spirit or
24 requirements of this chapter; provided, however, these meetings and discussions are not prohibited.

25 (1) Provided, further however, that discussions of a public body via electronic
26 communication, including telephonic communication and telephone conferencing, shall be
27 permitted only to schedule a meeting, except as provided in this subsection.

28 (2) Provided, further however, that a member of a public body may participate by use of
29 electronic communication or telephone communication while on active duty in the armed services
30 of the United States.

31 (3) Provided, further however, that a member of that public body, who has a disability as
32 defined in chapter 87 of this title and:

33 (i) Cannot attend meetings of that public body solely by reason of the member's disability;

34 and

1 (ii) Cannot otherwise participate in the meeting without the use of electronic
2 communication or telephone communication as reasonable accommodation, may participate by use
3 of electronic communication or telephone communication in accordance with the process below.

4 (4) The governor's commission on disabilities is authorized and directed to:

5 (i) Establish rules and regulations for determining whether a member of a public body is
6 not otherwise able to participate in meetings of that public body without the use of electronic
7 communication or telephone communication as a reasonable accommodation due to that member's
8 disability;

9 (ii) Grant a waiver that allows a member to participate by electronic communication or
10 telephone communication only if the member's disability would prevent the member from being
11 physically present at the meeting location, and the use of such communication is the only
12 reasonable accommodation; and

13 (iii) Any waiver decisions shall be a matter of public record.

14 (5) The university of Rhode Island board of trustees members, established pursuant to §
15 16-32-2, are authorized to participate remotely in open public meetings of the board; provided,
16 however, that:

17 (i) The remote members and all persons present at the meeting location are clearly audible
18 and visible to each other;

19 (ii) A quorum of the body is participating;

20 (iii) If videoconferencing is used to conduct a meeting, the public notice for the meeting
21 shall inform the public that videoconferencing will be used and include instructions on how the
22 public can access the virtual meeting; and

23 (iv) The board shall adopt rules defining the requirements of remote participation including
24 its use for executive session, and the conditions by which a member is authorized to participate
25 remotely.

26 (6) A public body that is solely advisory in nature may permit a member to participate
27 remotely using videoconferencing technology in open public meetings of the public body;
28 provided, however, that:

29 (i) The public body must provide members of the public, without subscription, toll, or
30 similar charge, the opportunity to attend contemporaneously by remote methods using
31 videoconferencing technology when any member of the body participates by remote methods using
32 such technology;

33 (ii) If the public body provides an opportunity for public comment during a public meeting,
34 an effective means of communication between all members of the public body and all members of

1 the public in attendance, either in person or remotely using videoconferencing technology, must be
2 provided;

3 (iii) Notice of the meeting must be provided in accordance with § 42-46-6. In addition,
4 such notice shall include instructions for the public to attend and participate, pursuant to subsection
5 (b)(6)(i) of this section by means of videoconferencing technology, or in person;

6 (iv) All documents to be discussed at the open public meeting must be made available with
7 the electronic filing of the notice submitted to the secretary of state pursuant to § 42-46-6(f);

8 (v) A member of the public body who participates in a public meeting remotely is present
9 for purposes of a quorum and voting;

10 (vi) All members of the public body who participate in a public meeting remotely using
11 videoconferencing technology shall:

12 (A) Identify themselves when the meeting is convened; and

13 (B) Be able to hear and see the conduct of the meeting and be heard and be seen throughout
14 the meeting;

15 (vii) All non-unanimous votes taken during a public meeting with members participating
16 remotely using videoconferencing technology must be taken by roll call, and must be able to be
17 seen and heard by other members of the public body and the public;

18 (viii) If a quorum of the members of a public body participates remotely using
19 videoconferencing technology from the same physical location, members of the public must be
20 allowed to attend such meeting at the physical location and the notice of the meeting shall include
21 the location;

22 (ix) Whenever a public meeting being conducted with members of the public body
23 participating remotely using videoconferencing technology is interrupted by the failure,
24 disconnection or, in the chair's determination, unacceptable degradation of the video conference
25 technology, the meeting shall adjourn; and

26 (x) The minutes of the meeting shall record a list of members that attended the meeting in
27 person and a list of members that attended the meeting remotely using video conferencing
28 technology.

29 (7) The authorization to remotely use videoconferencing technology provided by
30 subsection (b)(6) of this section shall not apply to advisory bodies that are composed, in whole or
31 in part, of a subset of members of, or any member of, the public body that created such advisory
32 body or to which such advisory body reports.

33 (c) This chapter shall not apply to proceedings of the judicial branch of state government
34 or probate court or municipal court proceedings in any city or town.

1 (d) This chapter shall not prohibit the removal of any person who willfully disrupts a
2 meeting to the extent that orderly conduct of the meeting is seriously compromised.

3 (e) For the purposes of this section, "a public body that is solely advisory in nature" means
4 any public board, commission, committee, council, task force, workgroup or other entity which
5 does not exercise any decision-making authority or other independent power, and whose members
6 are appointed by a governmental agency or officer or created by law for the sole purpose of making
7 studies or giving advice and/or recommendations, or otherwise advising or consulting with a
8 governmental agency or other public body.

9 SECTION 2. This act shall take effect on January 30, 2024.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT-- OPEN MEETINGS

1 This act would amend the Open Meetings law to permit members of a public body that is
2 solely advisory in nature to participate remotely using videoconferencing technology in open public
3 meetings of the public body, provided that certain requirements are met.

4 This act would take effect on January 30, 2024.

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