
OLR Bill Analysis

sSB 183

AN ACT CONCERNING REMOTE MEETINGS UNDER THE FREEDOM OF INFORMATION ACT.

SUMMARY

This bill allows public agencies to hold meetings remotely through conference call, videoconference, or other technology. (In doing so, it generally codifies Executive Order 7B (§ 1), which the governor issued on March 14, 2020, effective for the duration of the declared public health and civil preparedness emergencies.)

The bill specifies that public agency meetings held remotely in compliance with its requirements satisfy the Freedom of Information Act's (FOIA's) requirement that these meetings be open to the public. It makes numerous conforming changes, including allowing public agencies to go into executive session during a remote meeting for the same reasons that they may do so for an in-person meeting (e.g., to discuss pending litigation).

Additionally, the bill allows notices of a special meeting to be electronically sent to a public agency's members rather than delivered to their homes as current law requires. Current law also allows members to waive delivery of the notice by filing a written waiver with the agency's clerk or secretary. The bill allows members to submit these waivers electronically. (A special meeting is one that is held to consider business that (1) was unforeseen when scheduling regular meetings and (2) should be addressed before the next regular meeting.)

The bill also allows public agencies, when a remote meeting is adjourned because all members are absent, to post a notice of adjournment in a conspicuous place on their websites. Current law requires that this notice be posted on or near the door of the meeting's location.

Lastly, the bill makes technical changes.

EFFECTIVE DATE: Upon passage

REMOTELY HELD MEETINGS

Under current law, FOIA's definition of "meeting" includes those held by electronic equipment, but it does not explicitly authorize, or establish procedures for, telephone or other remotely held meetings (see BACKGROUND).

The bill explicitly allows remotely held meetings under FOIA, subject to the following conditions:

1. The public must be able to view or listen to the meeting (other than executive sessions) in real-time through telephone, video, or other technology.
2. With the exception of an executive session, the meeting must be recorded or transcribed, with the recording or transcript posted on the agency's website within seven days after the meeting and made available in the agency's office within a reasonable period of time. (The bill does not specify a deadline for making the recording or transcript available in the office.)
3. The meeting notice and agenda must be posted on the agency's website and include information about how the public can access the meeting and what technology it will use.
4. Materials relevant to the agenda must be (a) submitted to the agency at least 24 hours before the meeting and (b) posted on the agency's website for inspection before, during, and after the meeting.
5. Exhibits submitted by the public must, to the extent feasible, be (a) submitted to the agency at least 24 hours before the meeting and (b) posted on the agency's website for inspection before, during, and after the meeting.
6. Meeting participants must state their name and title (if

applicable) each time before speaking unless the presiding officer has already called his or her name.

The bill requires that agendas for remotely held meetings comply with FOIA's existing deadlines for making meeting agendas (e.g., posted at least 24 hours in advance of a regular meeting). Current law requires public agencies, other than those of political subdivisions (e.g., municipalities), to post meeting minutes on their website within seven days after the meeting. The bill subjects public agencies of political subdivisions to the online posting requirement for any remotely held meetings.

BACKGROUND

Related Bills

HB 6651 and SB 1074, reported favorably by the Government Administration and Elections Committee, authorize remote meetings under nearly identical conditions as those in the bill.

sHB 6448, reported favorably by the Planning and Development Committee, authorizes remote meetings under similar conditions as those in the bill.

HB 6641, reported favorably by the Planning and Development Committee, authorizes remote meetings under similar conditions as those in the bill.

Telephone Meetings Under FOIA

Although FOIA currently does not explicitly authorize telephone or other remotely held meetings, its definition of "meeting" includes those held by electronic equipment (CGS § 1-200(2)).

In its only advisory opinion on the subject, the Freedom of Information Commission (FOIC) advised that public agencies conducting business over the phone must comply with FOIA's open meeting requirements. According to FOIC, agencies must make sure that the public has "access to the entire proceedings taking place during the course of a meeting."

Specifically, the commission advised that the meeting must comply with at least the following:

1. members of the public who want to attend the meeting must be accommodated at a place where the greatest number of participating agency members are located;
2. people attending the meeting, including members of the public, must be able to see and inspect copies of any physical or demonstrable materials presented or used; and
3. all those attending the meeting, at whatever location, must be able to hear and identify adequately all participants in the proceedings, including individual remarks and votes (Advisory Opinion 41, 1980).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 3 (03/29/2021)