



Senate

General Assembly

File No. 441

January Session, 2021

Substitute Senate Bill No. 183

Senate, April 14, 2021

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) A public agency may hold
2 any meeting remotely by using a conference call, videoconference or
3 other technology, provided (1) the public has the ability to view or listen
4 to the meeting simultaneously with its occurrence, using telephone,
5 video or other technology, but excluding any portion of the meeting that
6 is an executive session; (2) any such meeting is recorded or transcribed,
7 excluding any portion of the meeting that is an executive session, and
8 such recording or transcript is posted on the agency's Internet web site
9 not later than seven days after the meeting, and made available in the
10 agency's office or regular place of business within a reasonable period
11 of time; (3) the notice and agenda for such meeting is posted on the
12 agency's Internet web site and includes information about what
13 technology will be used for the meeting and by what method the public
14 can access the meeting; (4) any materials relevant to matters on the

15 agenda, including, but not limited to, materials related to specific
16 applications, if applicable, are submitted to the agency a minimum of
17 twenty-four hours prior to the meeting and posted on the agency's
18 Internet web site for public inspection prior to, during and after the
19 meeting, and any exhibits to be submitted by members of the public are,
20 to the extent feasible, submitted to the agency a minimum of twenty-
21 four hours prior to the meeting and posted on the agency's Internet web
22 site for public inspection prior to, during and after the meeting; and (5)
23 any person participating in any such meeting clearly states his or her
24 name and title, if applicable, each time before speaking, unless the
25 presiding officer has already identified such person by calling his or her
26 name.

27 (b) The provisions of this section shall not be construed to require the
28 posting of any record that is otherwise exempt from disclosure under
29 any provision of the general statutes.

30 Sec. 2. Section 1-225 of the general statutes is repealed and the
31 following is substituted in lieu thereof (*Effective from passage*):

32 (a) As used in this subsection, "open to the public" includes, but is not
33 limited to, a remote meeting held pursuant to section 1 of this act. The
34 meetings of all public agencies, except executive sessions, [as defined in
35 subdivision (6) of section 1-200,] shall be open to the public. The votes
36 of each member of any such public agency upon any issue before such
37 public agency shall be reduced to writing and made available for public
38 inspection within forty-eight hours and shall also be recorded in the
39 minutes of the session at which taken. Not later than seven days after
40 the date of the session to which such minutes refer, such minutes shall
41 be available for public inspection and posted on such public agency's
42 Internet web site, if available, except that no public agency of a political
43 subdivision of the state shall be required to post such minutes on an
44 Internet web site unless conducting a remote meeting pursuant to
45 section 1 of this act. Each public agency shall make, keep and maintain
46 a record of the proceedings of its meetings.

47 (b) Each such public agency of the state shall file not later than

48 January thirty-first of each year in the office of the Secretary of the State
49 the schedule of the regular meetings of such public agency for the
50 ensuing year and shall post such schedule on such public agency's
51 Internet web site, if available, except that such requirements shall not
52 apply to the General Assembly, either house thereof or to any committee
53 thereof. Any other provision of the Freedom of Information Act
54 notwithstanding, the General Assembly at the commencement of each
55 regular session in the odd-numbered years, shall adopt, as part of its
56 joint rules, rules to provide notice to the public of its regular, special,
57 emergency or interim committee meetings. The chairperson or secretary
58 of any such public agency of any political subdivision of the state shall
59 file, not later than January thirty-first of each year, with the clerk of such
60 subdivision the schedule of regular meetings of such public agency for
61 the ensuing year, and no such meeting of any such public agency shall
62 be held sooner than thirty days after such schedule has been filed. The
63 chief executive officer of any multitown district or agency shall file, not
64 later than January thirty-first of each year, with the clerk of each
65 municipal member of such district or agency, the schedule of regular
66 meetings of such public agency for the ensuing year, and no such
67 meeting of any such public agency shall be held sooner than thirty days
68 after such schedule has been filed.

69 (c) The agenda of the regular meetings of every public agency, except
70 for the General Assembly, shall be available to the public and shall be
71 filed, not less than twenty-four hours before the meetings to which they
72 refer, (1) in such agency's regular office or place of business, and (2) in
73 the office of the Secretary of the State for any such public agency of the
74 state, in the office of the clerk of such subdivision for any public agency
75 of a political subdivision of the state or in the office of the clerk of each
76 municipal member of any multitown district or agency. For any such
77 public agency of the state, such agenda shall be posted on the public
78 agency's and the Secretary of the State's web sites. Any such agenda of
79 a remote meeting shall comply with the requirements of section 1 of this
80 act. Upon the affirmative vote of two-thirds of the members of a public
81 agency present and voting, any subsequent business not included in
82 such filed agendas may be considered and acted upon at such meetings.

83 (d) Notice of each special meeting of every public agency, except for
84 the General Assembly, either house thereof or any committee thereof,
85 shall be posted not less than twenty-four hours before the meeting to
86 which such notice refers on the public agency's Internet web site, if
87 available, and given not less than twenty-four hours prior to the time of
88 such meeting by filing a notice of the time and place thereof in the office
89 of the Secretary of the State for any such public agency of the state, in
90 the office of the clerk of such subdivision for any public agency of a
91 political subdivision of the state and in the office of the clerk of each
92 municipal member for any multitown district or agency. The secretary
93 or clerk shall cause any notice received under this section to be posted
94 in his office. Such notice shall be given not less than twenty-four hours
95 prior to the time of the special meeting; provided, in case of emergency,
96 except for the General Assembly, either house thereof or any committee
97 thereof, any such special meeting may be held without complying with
98 the foregoing requirement for the filing of notice but a copy of the
99 minutes of every such emergency special meeting adequately setting
100 forth the nature of the emergency and the proceedings occurring at such
101 meeting shall be filed with the Secretary of the State, the clerk of such
102 political subdivision, or the clerk of each municipal member of such
103 multitown district or agency, as the case may be, not later than seventy-
104 two hours following the holding of such meeting. The notice shall
105 specify the time and place of the special meeting and the business to be
106 transacted, and if to be held remotely, shall comply with the
107 requirements of section 1 of this act. No other business shall be
108 considered at such meetings by such public agency. In addition, such
109 written notice shall be delivered to the usual place of abode of each
110 member of the public agency or by electronic means at an address
111 designated by such member, so that the same is received prior to such
112 special meeting. The requirement of delivery of such written notice may
113 be dispensed with as to any member who at or prior to the time the
114 meeting convenes files with the clerk or secretary of the public agency a
115 written waiver of delivery of such notice. Such waiver may be given [by
116 telegram] electronically. The requirement of delivery of such written
117 notice may also be dispensed with as to any member who is actually

118 present at the meeting at the time it convenes. Nothing in this section
119 shall be construed to prohibit any agency from adopting more stringent
120 notice requirements.

121 (e) No member of the public shall be required, as a condition to
122 attendance at a meeting of any such body, to register the member's
123 name, or furnish other information, or complete a questionnaire or
124 otherwise fulfill any condition precedent to the member's attendance.

125 (f) A public agency may hold an executive session [, as defined in
126 subdivision (6) of section 1-200,] upon an affirmative vote of two-thirds
127 of the members of such body present and voting, taken at a public
128 meeting or a remote meeting held pursuant to section 1 of this act and
129 stating the reasons for such executive session. [, as defined in section 1-
130 200.]

131 (g) In determining the time within which or by when a notice, agenda,
132 record of votes or minutes of a special meeting or an emergency special
133 meeting are required to be filed under this section, Saturdays, Sundays,
134 legal holidays and any day on which the office of the agency, the
135 Secretary of the State or the clerk of the applicable political subdivision
136 or the clerk of each municipal member of any multitown district or
137 agency, as the case may be, is closed, shall be excluded.

138 Sec. 3. Section 1-226 of the general statutes is repealed and the
139 following is substituted in lieu thereof (*Effective from passage*):

140 (a) At any meeting of a public agency which is open to the public,
141 pursuant to the provisions of section 1-225, as amended by this act,
142 proceedings of such public agency may be recorded, photographed,
143 broadcast or recorded for broadcast, subject to such rules as such public
144 agency may have prescribed prior to such meeting, by any person or by
145 any newspaper, radio broadcasting company or television broadcasting
146 company, provided any remote meeting shall be available for viewing
147 and recorded in accordance with section 1 of this act. Any recording,
148 radio, television or photographic equipment may be so located within
149 the meeting room as to permit the recording, broadcasting either by

150 radio, or by television, or by both, or the photographing of the
151 proceedings of such public agency. The photographer or broadcaster
152 and its personnel, or the person recording the proceedings, shall be
153 required to handle the photographing, broadcast or recording as
154 inconspicuously as possible and in such manner as not to disturb the
155 proceedings of the public agency. As used [herein] in this section, the
156 term [television shall include] "television" includes the transmission of
157 visual and audible signals by cable.

158 (b) Any such public agency may adopt rules governing such
159 recording, photography or the use of such broadcasting equipment for
160 radio and television stations but, (1) in the absence of the adoption of
161 such rules and regulations by such public agency prior to the meeting,
162 such recording, photography or the use of such radio and television
163 equipment shall be permitted as provided in subsection (a) of this
164 section, and (2) any such rules and regulations concerning remote
165 meetings shall comply with the requirements of section 1 of this act.

166 (c) Whenever there is a violation or the probability of a violation of
167 subsections (a) and (b) of this section the superior court, or a judge
168 thereof, for the judicial district in which such meeting is taking place
169 shall, upon application made by affidavit that such violation is taking
170 place or that there is reasonable probability that such violation will take
171 place, issue a temporary injunction against any such violation without
172 notice to the adverse party to show cause why such injunction should
173 not be granted and without the plaintiff's giving bond. Any person or
174 public agency so enjoined may immediately appear and be heard by the
175 court or judge granting such injunction with regard to dissolving or
176 modifying the same and, after hearing the parties and upon a
177 determination that such meeting should not be open to the public, said
178 court or judge may dissolve or modify the injunction. Any action taken
179 by a judge upon any such application shall be immediately certified to
180 the court to which such proceedings are returnable.

181 Sec. 4. Section 1-228 of the general statutes is repealed and the
182 following is substituted in lieu thereof (*Effective from passage*):

183 The public agency may adjourn any regular or special meeting to a
184 time and place specified in the order of adjournment. Less than a
185 quorum may so adjourn from time to time. If all members are absent
186 from any regular meeting the clerk or the secretary of such body may
187 declare the meeting adjourned to a stated time and place and shall cause
188 a written notice of the adjournment to be given in the same manner as
189 provided in section 1-225, as amended by this act, for special meetings,
190 unless such notice is waived as provided for special meetings, or as
191 provided in section 1 of this act, for remote meetings. A copy of the order
192 or notice of adjournment shall be conspicuously posted on or near the
193 door of the place where the regular or special meeting was held, or in a
194 conspicuous place on the Internet web site of the public agency, within
195 twenty-four hours after the time of the adjournment. When an order of
196 adjournment of any meeting fails to state the hour at which the
197 adjourned meeting is to be held, it shall be held at the hour specified for
198 regular meetings, by ordinance, resolution, by law or other rule.

199 Sec. 5. Section 1-200 of the general statutes is repealed and the
200 following is substituted in lieu thereof (*Effective from passage*):

201 As used in this chapter and section 1 of this act, the following words
202 and phrases shall have the following meanings, except where such
203 terms are used in a context which clearly indicates the contrary:

204 (1) "Public agency" or "agency" means:

205 (A) Any executive, administrative or legislative office of the state or
206 any political subdivision of the state and any state or town agency, any
207 department, institution, bureau, board, commission, authority or official
208 of the state or of any city, town, borough, municipal corporation, school
209 district, regional district or other district or other political subdivision of
210 the state, including any committee of, or created by, any such office,
211 subdivision, agency, department, institution, bureau, board,
212 commission, authority or official, and also includes any judicial office,
213 official, or body or committee thereof but only with respect to its or their
214 administrative functions, and for purposes of this subparagraph,
215 "judicial office" includes, but is not limited to, the Division of Public

216 Defender Services;

217 (B) Any person to the extent such person is deemed to be the
218 functional equivalent of a public agency pursuant to law; or

219 (C) Any "implementing agency", as defined in section 32-222.

220 (2) "Meeting" means any hearing or other proceeding of a public
221 agency, any convening or assembly of a quorum of a multimember
222 public agency, and any communication by or to a quorum of a
223 multimember public agency, whether in person or by means of
224 electronic equipment, to discuss or act upon a matter over which the
225 public agency has supervision, control, jurisdiction or advisory power.
226 "Meeting" does not include: Any meeting of a personnel search
227 committee for executive level employment candidates; any chance
228 meeting, or a social meeting neither planned nor intended for the
229 purpose of discussing matters relating to official business; strategy or
230 negotiations with respect to collective bargaining; a caucus of members
231 of a single political party notwithstanding that such members also
232 constitute a quorum of a public agency; an administrative or staff
233 meeting of a single-member public agency; and communication limited
234 to notice of meetings of any public agency or the agendas thereof. A
235 quorum of the members of a public agency who are present at any event
236 which has been noticed and conducted as a meeting of another public
237 agency under the provisions of the Freedom of Information Act shall not
238 be deemed to be holding a meeting of the public agency of which they
239 are members as a result of their presence at such event.

240 (3) "Caucus" means (A) a convening or assembly of the enrolled
241 members of a single political party who are members of a public agency
242 within the state or a political subdivision, or (B) the members of a
243 multimember public agency, which members constitute a majority of
244 the membership of the agency, or the other members of the agency who
245 constitute a minority of the membership of the agency, who register
246 their intention to be considered a majority caucus or minority caucus, as
247 the case may be, for the purposes of the Freedom of Information Act,
248 provided (i) the registration is made with the office of the Secretary of

249 the State for any such public agency of the state, in the office of the clerk
250 of a political subdivision of the state for any public agency of a political
251 subdivision of the state, or in the office of the clerk of each municipal
252 member of any multitown district or agency, (ii) no member is
253 registered in more than one caucus at any one time, (iii) no such
254 member's registration is rescinded during the member's remaining term
255 of office, and (iv) a member may remain a registered member of the
256 majority caucus or minority caucus regardless of whether the member
257 changes his or her party affiliation under chapter 143.

258 (4) "Person" means natural person, partnership, corporation, limited
259 liability company, association or society.

260 (5) "Public records or files" means any recorded data or information
261 relating to the conduct of the public's business prepared, owned, used,
262 received or retained by a public agency, or to which a public agency is
263 entitled to receive a copy by law or contract under section 1-218,
264 whether such data or information be handwritten, typed, tape-recorded,
265 printed, photostated, photographed or recorded by any other method.

266 (6) "Executive sessions" means a meeting of a public agency at which
267 the public is excluded for one or more of the following purposes: (A)
268 Discussion concerning the appointment, employment, performance,
269 evaluation, health or dismissal of a public officer or employee, provided
270 that such individual may require that discussion be held at an open
271 meeting; (B) strategy and negotiations with respect to pending claims or
272 pending litigation to which the public agency or a member thereof,
273 because of the member's conduct as a member of such agency, is a party
274 until such litigation or claim has been finally adjudicated or otherwise
275 settled; (C) matters concerning security strategy or the deployment of
276 security personnel, or devices affecting public security; (D) discussion
277 of the selection of a site or the lease, sale or purchase of real estate by the
278 state or a political subdivision of the state when publicity regarding such
279 site, lease, sale, purchase or construction would adversely impact the
280 price of such site, lease, sale, purchase or construction until such time as
281 all of the property has been acquired or all proceedings or transactions

282 concerning same have been terminated or abandoned; and (E)
283 discussion of any matter which would result in the disclosure of public
284 records or the information contained therein described in subsection (b)
285 of section 1-210.

286 (7) "Personnel search committee" means a body appointed by a public
287 agency, whose sole purpose is to recommend to the appointing agency
288 a candidate or candidates for an executive-level employment position.
289 Members of a "personnel search committee" shall not be considered in
290 determining whether there is a quorum of the appointing or any other
291 public agency.

292 (8) "Pending claim" means a written notice to an agency which sets
293 forth a demand for legal relief or which asserts a legal right stating the
294 intention to institute an action in an appropriate forum if such relief or
295 right is not granted.

296 (9) "Pending litigation" means (A) a written notice to an agency which
297 sets forth a demand for legal relief or which asserts a legal right stating
298 the intention to institute an action before a court if such relief or right is
299 not granted by the agency; (B) the service of a complaint against an
300 agency returnable to a court which seeks to enforce or implement legal
301 relief or a legal right; or (C) the agency's consideration of action to
302 enforce or implement legal relief or a legal right.

303 (10) "Freedom of Information Act" means this chapter.

304 (11) "Governmental function" means the administration or
305 management of a program of a public agency, which program has been
306 authorized by law to be administered or managed by a person, where
307 (A) the person receives funding from the public agency for
308 administering or managing the program, (B) the public agency is
309 involved in or regulates to a significant extent such person's
310 administration or management of the program, whether or not such
311 involvement or regulation is direct, pervasive, continuous or day-to-
312 day, and (C) the person participates in the formulation of governmental
313 policies or decisions in connection with the administration or

314 management of the program and such policies or decisions bind the
 315 public agency. "Governmental function" shall not include the mere
 316 provision of goods or services to a public agency without the delegated
 317 responsibility to administer or manage a program of a public agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	1-225
Sec. 3	<i>from passage</i>	1-226
Sec. 4	<i>from passage</i>	1-228
Sec. 5	<i>from passage</i>	1-200

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Freedom of Information Com.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill allows public agencies to hold meetings remotely through a conference call, videoconference, or other technology. 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.

This bill is anticipated to increase the number of complaints that the Freedom of Information Commission (FOIC) receives. Depending on the number of complaints, FOIC may need an additional staff attorney to handle the increased workload.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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)