

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: Senators Gu, DiMario, Valverde, Lauria, Burke, Kallman, and Miller

Date Introduced: March 23, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-46-5 and 42-46-6 of the General Laws in Chapter 42-46 entitled
2 "Open Meetings" are 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) Nothing contained herein shall prohibit members of a public body that is solely advisory
27 in nature from participating remotely using videoconferencing technology in open public meetings
28 of the public body; provided, however, that:

29 (i) The public body shall 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, shall be
2 provided.

3 (iii) Notice of the meeting shall 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, and an email
6 address where a member of the public can request a recording of the meeting pursuant to subsection
7 (x) of this section;

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

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

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

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

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

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

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

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

28 (x) The public body shall ensure that the meeting is recorded, make the recording available
29 online within twenty-four (24) hours of adjournment of the meeting on the secretary of state's
30 website, and retain a copy for public inspection for a period of not less than five (5) years; and

31 (xi) The minutes of the meeting shall record a list of members that attended the meeting in
32 person and a list of members that attended the meeting remotely using video conferencing
33 technology.

34 (7) The authorization to remotely use videoconferencing technology provided by

1 subsection (b)(6) of this section shall not apply to advisory bodies that are composed, in whole or
2 in part, of a subset of members of, or any member of, the public body that created such advisory
3 body or to which such advisory body reports.

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

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

8 **42-46-6. Notice.**

9 (a) All public bodies shall give written notice of their regularly scheduled meetings at the
10 beginning of each calendar year. The notice shall include the dates, times, and places of the
11 meetings and shall be provided to members of the public upon request and to the secretary of state
12 at the beginning of each calendar year in accordance with subsection (f).

13 (b) Public bodies shall give supplemental written public notice of any meeting within a
14 minimum of forty-eight (48) hours, excluding weekends and state holidays in the count of hours,
15 before the date. This notice shall include the date the notice was posted; the date, time, and place
16 of the meeting; and a statement specifying the nature of the business to be discussed. Copies of the
17 notice shall be maintained by the public body for a minimum of one year. Nothing contained herein
18 shall prevent a public body, other than a school committee, from adding additional items to the
19 agenda by majority vote of the members. School committees may, however, add items for
20 informational purposes only, pursuant to a request, submitted in writing, by a member of the public
21 during the public comment session of the school committee's meetings. Said informational items
22 may not be voted upon unless they have been posted in accordance with the provisions of this
23 section. Such additional items shall be for informational purposes only and may not be voted on
24 except where necessary to address an unexpected occurrence that requires immediate action to
25 protect the public or to refer the matter to an appropriate committee or to another body or official.

26 (c) Written public notice shall include, but need not be limited to, posting a copy of the
27 notice at the principal office of the public body holding the meeting, or if no principal office exists,
28 at the building in which the meeting is to be held, and in at least one other prominent place within
29 the governmental unit, and electronic filing of the notice with the secretary of state pursuant to
30 subsection (f); however, nothing contained herein shall prevent a public body from holding an
31 emergency meeting, upon an affirmative vote of the majority of the members of the body when the
32 meeting is deemed necessary to address an unexpected occurrence that requires immediate action
33 to protect the public. If an emergency meeting is called, a meeting notice and agenda shall be posted
34 as soon as practicable and shall be electronically filed with the secretary of state pursuant to

1 subsection (f) and, upon meeting, the public body shall state for the record and minutes why the
2 matter must be addressed in less than forty-eight (48) hours in accordance with subsection (b) of
3 this section and only discuss the issue or issues that created the need for an emergency meeting.
4 Nothing contained herein shall be used in the circumvention of the spirit and requirements of this
5 chapter.

6 (d) Nothing within this chapter shall prohibit any public body, or the members thereof,
7 from responding to comments initiated by a member of the public during a properly noticed open
8 forum even if the subject matter of a citizen's comments or discussions were not previously posted,
9 provided such matters shall be for informational purposes only and may not be voted on except
10 where necessary to address an unexpected occurrence that requires immediate action to protect the
11 public or to refer the matter to an appropriate committee or to another body or official. Nothing
12 contained in this chapter requires any public body to hold an open-forum session to entertain or
13 respond to any topic nor does it prohibit any public body from limiting comment on any topic at
14 such an open-forum session. No public body, or the members thereof, may use this section to
15 circumvent the spirit or requirements of this chapter.

16 (e) A school committee may add agenda items not appearing in the published notice
17 required by this section under the following conditions:

18 (1) The revised agenda is electronically filed with the secretary of state pursuant to
19 subsection (f), and is posted on the school district's website and the two (2) public locations
20 required by this section at least forty-eight (48) hours in advance of the meeting in accordance with
21 subsection (b) of this section;

22 (2) The new agenda items were unexpected and could not have been added in time for
23 newspaper publication;

24 (3) Upon meeting, the public body states for the record and minutes why the agenda items
25 could not have been added in time for newspaper publication and need to be addressed at the
26 meeting;

27 (4) A formal process is available to provide timely notice of the revised agenda to any
28 person who has requested that notice, and the school district has taken reasonable steps to make the
29 public aware of this process; and

30 (5) The published notice shall include a statement that any changes in the agenda will be
31 posted on the school district's website and the two (2) public locations required by this section and
32 will be electronically filed with the secretary of state at least forty-eight (48) hours in advance of
33 the meeting in accordance with subsection (b) of this section.

34 (f) All notices required by this section to be filed with the secretary of state shall be

1 electronically transmitted to the secretary of state in accordance with rules and regulations that shall
2 be promulgated by the secretary of state. This requirement of the electronic transmission and filing
3 of notices with the secretary of state shall take effect one year after this subsection takes effect.

4 (g) If a public body fails to transmit notices in accordance with this section, then any
5 aggrieved person may file a complaint with the attorney general in accordance with § 42-46-8.

6 (h) All city and town councils, all elected and appointed school boards and school
7 committees, all zoning boards, all planning boards, and all quasi-public boards, agencies, and
8 corporations (as defined in § 42-155-3 and provided for in the findings in § 42-155-2) shall provide
9 members of the public with the opportunity to attend open public meetings contemporaneously by
10 remote methods without subscription, toll, or similar charge to the public. If the above-described
11 bodies provide an opportunity for public comment during the public meeting, an effective means
12 of communication between all members of the public body and all members of the public in
13 attendance, either in person or remotely, shall be provided. Notice of the meeting provided pursuant
14 to this section shall include instructions for the public to attend and comment by means of
15 videoconferencing technology. The public body shall ensure that the meeting is recorded, make the
16 recording available online within twenty-four (24) hours of adjournment of the meeting on the
17 secretary of state's website, and retain a copy for public inspection for a period of no less than five
18 (5) years.

19 SECTION 2. This act shall take effect upon passage.

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LC001932
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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. This act would also
4 provide additional rules for municipal councils, boards, school committees, and other entities to
5 follow regarding remote attendance by the public at public meetings, and would direct those bodies
6 to provide an effective means of communication for the public to provide comment if there is an
7 opportunity for public comment at the meeting.

8 This act would take effect upon passage.

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