

## DIGEST

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SB 201 Reengrossed

2023 Regular Session

Hewitt

**Participation in Meetings of Public Bodies By a Member of the Public with a Disability**

Proposed law requires each public body that has the capability to allow any member of the public with a disability recognized by the Americans with Disabilities Act (ADA) or his designated caregiver to participate in its meetings via teleconference or video conference to adopt rules, regulations, and procedures to regulate and facilitate participation via teleconference or video conference for any such person who prior to the meeting requests that accommodation.

Proposed law further requires each public body that does not have the capability to allow any member of the public with a disability recognized by the ADA or his designated caregiver to participate in its meetings via teleconference or video conference to adopt rules, regulations, and procedures to facilitate viable alternative methods for the person or his designated caregiver who so requests to participate in its meetings.

Proposed law does not apply during an executive session held in accordance with law, during any meeting that is sequestered in accordance with law, or any meeting of a parish board of election supervisors when performing certain duties provided by present law.

**Participation in Meetings of Public Bodies By a Member of the Body with a Disability**

Proposed law generally exempts a member of a public body who has a disability recognized by the ADA from any requirement that he be physically present in order to participate and vote in a meeting of the body.

Proposed law further requires each public body to adopt rules, regulations, and procedures to facilitate such a person's participation via electronic means.

**Meetings of Certain Public Bodies Held via Electronic Means**

Present law authorizes the State Bond Commission, pharmacy benefit manager monitoring advisory council, statewide advisory committees of the State Bd. of Medical Examiners, committees and subcommittees of the La. State Law Institute, and the La. Military Family Assistance Bd to conduct periodic meetings via electronic means provided certain present law requirements, including notice and agenda publication and mechanisms for public participation, are met.

Present law further authorizes the Gaming Control Bd. to conduct emergency meetings via video conference as determined to be necessary by the chairman.

Proposed law repeals present law and establishes comprehensive eligibility requirements for all public bodies that have powers, duties, or functions that are not limited to a particular political subdivision or region to hold meetings via electronic means. Proposed law prohibits disciplinary hearings or adjudications of licensing or regulatory public bodies and meetings of the legislature or any committee thereof, the State Bd. of Elementary and Secondary Education, the Bd. of Regents, the Bd. of Ethics, the Ethics Adjudicatory Bd., the State Civil Service Commission, the board of directors of the La. Citizens Property Insurance Corp., the Bd. of Commerce and Industry, the board of supervisors for the university systems, and any parish board of election supervisors from occurring via electronic means.

Proposed law defines "meeting via electronic means" as a meeting at which one or more members of a public body or members of the public participate via teleconference or video conference.

Proposed law authorizes public bodies to conduct meetings via electronic means. Further authorizes members of public bodies to attend and participate in a meeting via electronic means.

Proposed law provides notice requirements, including electronic posting of the meeting notice, agenda, and information regarding how members of the public may participate in the meeting and submit comments.

Proposed law requires the presiding officer to be present at the anchor location, which is the physical location from which the meeting originates or the participants are connected. Further requires that the anchor location be open to the public and that any member of the public body or the public shall be allowed to participate in-person at the anchor location.

Proposed law requires the public body to provide a mechanism to receive public comment electronically, acknowledge all public comments during the meeting, and maintain public comment in the meeting records.

Proposed law requires the presiding officer to ensure that each person participating in the meeting is properly identified, that all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting, and that the voting decision of each participating member of the public body on each matter is clearly identified during each vote and recorded and included in the archive of the meeting.

Proposed law provides that if the public body is aware of a technical problem that causes the meeting to no longer be audible or visible to the public, the meeting shall be recessed until the problem is resolved. Requires that the meeting shall be adjourned if the problem is not resolved within one hour.

Proposed law requires the meeting be recorded and made available to the public on the public body's website for at least two years.

Proposed law provides that all members of the public body participating in a meeting held pursuant to proposed law, either at the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

Proposed law requires each public body to adopt rules, regulations, and procedures to allow the public to participate in the meeting via electronic means.

Proposed law prohibits a public body from conducting all of its meetings during a calendar year via electronic means. Requires each public body to limit the number of successive meetings via electronic means to a reasonable number. However, proposed law allows any public body that is strictly advisory or that primarily focuses on issues dealing with disabilities or assisting military families to conduct successive meetings via electronic means without limitation.

Proposed law requires all public bodies that conduct meetings via electronic means to publish a schedule of their meetings indicating which upcoming meetings will be conducted via electronic means and which will be conducted only in person.

Proposed law prohibits a member of a public body who participates in a meeting via electronic means from receiving per diem for attendance at the meeting.

#### **Review By the Legislative Auditor**

Proposed law requires the legislative auditor to review the policies and practices of public bodies relative to the implementation of proposed law and to submit reports of findings and any recommendations to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(Amends R.S. 42:17.2; Adds R.S. 42:14(E) and 17.2.1; Repeals R.S. 24:202(G), R.S. 27:11(G)(2), R.S. 42:17.3 and 29, and R.S. 46:123(M))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Encourage local public bodies to adopt measures to allow for remote public participation.
2. Allow advisory councils to meet via electronic means without limitation.
3. Provide that an anchor location may be a location specifically equipped with technology necessary to meet via electronic means.
4. Allow a statewide body that meets at least three times per week and conducts over one hundred meetings per year to conduct successive meetings via electronic means in a calendar week.
5. Prohibit parish boards of election supervisors from meeting via electronic means.
6. Allow the Louisiana Military Family Assistance Board to conduct any meeting via electronic means.

Senate Floor Amendments to engrossed bill

1. Define advisory committee.
2. Allow advisory committees to meet via electronic means without limitation.
3. Except meetings sequestered for security purposes from being required to provide for remote participation via electronic means.
4. Specify that public bodies eligible to meet via electronic means will be reviewed by the legislative auditor for the first two years in which they are eligible and regularly thereafter.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the reengrossed bill:

1. Remove general provision requiring all statewide bodies and advisory councils to adopt provisions to allow the public to participate in meetings via electronic means.
2. Limit the requirement for public bodies to provide the ability for persons with an ADA disability to participate in meetings via electronic means to those public bodies with the capability to do so, add the ability of caregivers of such persons to so participate, and require public bodies without the capability to do so to develop viable alternatives for such participation.
3. Relative to provisions for certain public bodies to meet via electronic means, remove definitions for advisory councils and statewide body and provide instead that provisions apply to any public body which has powers, duties, or functions that are not limited to a particular political subdivision or region, add to the list of public bodies to which proposed law does not apply, and prohibit the use of meeting via electronic means for disciplinary hearings or adjudications.

4. Remove limit on the number of meetings and successive meetings via electronic means for certain public bodies and instead provide generally that no public body shall conduct all of its meeting during a calendar year via electronic means and shall limit the number of successive meetings via electronic means to a reasonable number, except that advisory public bodies and public bodies focused on dealing with disabilities or assisting military families may conduct successive meetings without limitation.
5. Change the voting provisions from a requirement for a roll call to requiring that the voting decision of each participating member on each matter be clearly identified and saved in the archive.
6. Relative to the requirement that a public body allow a member of the public body with an ADA disability participate in a meeting via electronic means, remove exemption for meetings which are sequestered.
7. Require the legislative auditor to review the policies and practices of public bodies relative to proposed law rather than only the provisions relative to specified public bodies meeting via electronic means.
8. Prohibit members of public bodies participating via electronic means from receiving per diem.