



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

---

Legislative Document

No. 1809

---

H.P. 1300

House of Representatives, March 11, 2014

### **An Act Concerning Meetings of Public Bodies Using Communications Technology**

---

Reported by Representative PRIEST of Brunswick for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 1 MRSA §403-A** is enacted to read:

3 **§403-A. Public proceedings through communications technology**

4 **1. Elected membership; prohibition.** A public body composed of elected members  
5 of a municipality, quasi-municipal entity or school administrative unit may not conduct a  
6 public proceeding in which a member participates in the discussion or transaction of  
7 public or governmental business when that member is not physically present at the  
8 location of the public proceeding.

9 **2. Authorized participation.** A public body, except a public body composed of  
10 elected members, of a municipality, quasi-municipal entity or school administrative unit  
11 may conduct a public proceeding during which one or more members of the body  
12 participate in the discussion or transaction of public or governmental business through  
13 telephonic, video, electronic or other similar means of communication only if all of the  
14 following requirements are met:

15 A. The body has adopted a written policy that authorizes a member of the body who  
16 is not physically present to participate in a public proceeding through telephonic,  
17 video, electronic or other similar means of communication in accordance with this  
18 section. The policy must establish criteria that must be met before a member may  
19 participate when not physically present. If the policy allows a member who is not  
20 physically present to participate in an executive session, the policy must specifically  
21 address the circumstances under which the executive session may be conducted to  
22 ensure privacy;

23 B. Notice of the public proceeding has been given in accordance with section 406;

24 C. Except as provided in subsection 4, a quorum of the body is assembled physically  
25 at the location identified in the notice required by section 406;

26 D. Each member of the body participating in the public proceeding is able to hear all  
27 the other members and speak to all the other members during the public proceeding,  
28 and members of the public attending the public proceeding in the location identified  
29 in the notice required by section 406 are able to hear all members participating from  
30 other locations. If documents or materials that include pictures, graphs, illustrations  
31 or other information presented in a visual format are part of the discussion, either the  
32 communications technology used must ensure that all members can see the  
33 documents and materials while the documents and materials are being discussed or  
34 the documents and materials must be provided to all members not physically present  
35 before or during the proceeding;

36 E. Each member who is not physically present and who is participating through  
37 telephonic, video, electronic or other similar means of communication identifies the  
38 persons present at the location from which the member is participating;

39 F. All votes taken during the public proceeding are taken by roll call vote; and

1 G. Each member who is not physically present and who is participating through  
2 telephonic, video, electronic or other similar means of communication has received  
3 prior to the public proceeding any documents or other materials that will be discussed  
4 at the public proceeding, with substantially the same content as those documents  
5 actually presented. Documents or other materials made available at the public  
6 proceeding may be transmitted to the member not physically present during the  
7 public proceeding if the transmission technology is available. Failure to comply with  
8 this paragraph does not invalidate the action of a body in a public proceeding.

9 **3. Voting; judicial or quasi-judicial proceeding.** A member of a body who is not  
10 physically present and who is participating in a judicial or quasi-judicial public  
11 proceeding through telephonic, video, electronic or other similar means of  
12 communication may not vote on any issue concerning testimony or other evidence  
13 provided during the judicial or quasi-judicial public proceeding.

14 **4. Exception to quorum requirement.** A body may convene a public proceeding  
15 by telephonic, video, electronic or other similar means of communication without a  
16 quorum under subsection 2, paragraph C if:

17 A. An emergency has been declared in accordance with Title 22, section 802,  
18 subsection 2-A or Title 37-B, section 742 and:

19 (1) The public proceeding is necessary to take action to address the emergency;  
20 and

21 (2) The body otherwise complies with the provisions of this section to the extent  
22 practicable based on the circumstances of the emergency; or

23 B. The body is expressly authorized by its governing statute to convene a public  
24 proceeding by telephonic, video, electronic or other similar means of communication  
25 with less than a quorum of the body assembled physically at the location identified in  
26 the notice required by section 406.

27 **5. Annual meeting.** If a body conducts one or more public proceedings pursuant to  
28 this section, it shall also hold at least one public proceeding annually during which  
29 members of the body in attendance are physically assembled at one location and where no  
30 members of the body participate by telephonic, video, electronic or other similar means  
31 of communication from a different location.

## 32 SUMMARY

33 This bill prohibits the use of telephonic, video, electronic or other similar means of  
34 communication to conduct public proceedings of elected public bodies of municipalities,  
35 quasi-municipal entities and school administrative units. It allows nonelected public  
36 bodies of municipalities, quasi-municipalities and school administrative units to do so  
37 only if specific requirements are met. Subject to the listed requirements, a body may  
38 conduct a public proceeding during which a member of the body participates in the  
39 discussion or transaction of public or governmental business through telephonic, video,  
40 electronic or other similar means of communication.

1           1. The body must adopt a policy that authorizes such participation and establishes the  
2 criteria that must be met under which a member may participate when not physically  
3 present. If the policy authorizes such participation in an executive session, the policy  
4 must spell out the circumstances for conducting the executive session that will ensure the  
5 required privacy.

6           2. Notice of any proceeding must be provided in accordance with the Freedom of  
7 Access Act.

8           3. A quorum of the body must be physically present, except that under certain  
9 circumstances a body may convene a public proceeding by telephonic, video, electronic  
10 or other similar means of communication without a quorum assembled physically at one  
11 location. One such circumstance is if the body's governing statute authorizes a meeting  
12 using the remote-access technology with less than a quorum physically present in the  
13 location listed in the meeting notice.

14          4. Members of the body must be able to hear and speak to each other during the  
15 proceeding. If discussions are based on documents or materials that are in visual format,  
16 the technology used must also allow all members to see the materials unless the  
17 documents and materials are provided before or during the proceedings to all members  
18 not physically present.

19          5. A member who is participating remotely must identify the persons present in the  
20 location from which the member is participating.

21          6. All votes taken during the public proceeding must be taken by roll call vote.

22          7. Each member who is not physically present and who is participating through  
23 telephonic, video, electronic or other similar means of communication must have  
24 received, prior to the proceeding, any documents or other materials that will be discussed  
25 at the public proceeding, with substantially the same content as those documents actually  
26 presented.

27          8. A member of a body who is not physically present may not vote on any issue  
28 concerning testimony or other evidence provided during the public proceeding if it is a  
29 judicial or quasi-judicial proceeding.

30          9. If a body conducts one or more public proceedings using the remote-access  
31 technology, the body must also hold at least one public proceeding annually during which  
32 all members of the body in attendance are physically assembled at one location.