

## REMOTE PARTICIPATION ELEMENTS

LD 32, LD 688, LD 746, LD 1578

Current law		LD 32 w/ amd	LD 688 w/amd	LD 746 & LD 1578
<b>§403-A. Public proceedings through remote access during declaration of state of emergency due to COVID-19</b>		<b>§403-B. Remote participation in public proceedings</b>	<b>§403-B. Remote participation in public proceedings of elected public bodies</b>	<b>§403-B. Public proceedings of the Legislature and municipal agencies through remote access</b>
<b>1. Definition of "remote participation"</b>				
may conduct a public proceeding through telephonic, video, electronic or other similar means of remote participation		For the purposes of this section, "remote methods" means telephonic or video technology allowing simultaneous reception of information, and may include other means when such means is necessary to provide meaningful access to a person with a disability in accordance with the Americans with Disabilities Act, the Maine Human Rights Act and Section 504 of the Rehabilitation Act. The authority to conduct meetings via "remote methods" does not allow conduct of a public proceeding via text-only means such as email, texts or chat functions.	<b>1. Definition.</b> As used in section, "remote participation" means participation through telephonic, video, electronic or other similar means of communication.	may conduct a public proceeding through telephonic, video, electronic or other similar means of remote participation
B. Each member of the body who is participating in the public proceeding is able to hear and speak to all the other members during the public proceeding and members of the public attending the public proceeding in the location identified in the notice given pursuant to paragraph A are able to hear all members participating at other locations;		C. The remote means used during a proceeding must allow for each member of the body to participate in the public proceeding and allow members of the public an effective means to attend the meeting;  D. Pursuant to Title 20-A MRSA §1001, sub-§20 or if the body allows public input during the proceeding, an effective means of communication between the	a member of the public body who is not physically present to participate in a public proceeding of that public body in a manner that allows all members to simultaneously hear and speak to each other during the public proceeding and allows members of the public attending the public proceeding at the location identified in the notice required by section 406 to hear all members of the public body.	C. Each member of the Legislature or board, commission, agency or authority of a municipality who is participating in the public proceeding is able to see, hear and speak to all the other members during the public proceeding, and members of the public attending the public proceeding in the location identified in the notice given pursuant to paragraph A are able to hear all members participating at other locations; and

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	members of the body and public must be provided;			
2. Who does it apply to?				
<p>a body subject to this subchapter</p> <p><b>2. Application to legislative proceedings.</b> This section does not apply to public proceedings of the Legislature, a legislative committee or the Legislative Council, except that while the state of emergency as set out in subsection 1 is in effect, the Legislature, a legislative committee or the Legislative Council may restrict attendance by the public to remote access by telephonic, video, electronic or other similar means. This section also does not apply to town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings pursuant to Title 20-A, section 1483.</p>	<p><b>2. Requirements.</b> Notwithstanding section 403-A, subsection 1, a public body described in section 402, subsection 2, paragraph B, C or D may allow members of the body to participate in a public proceeding using remote methods under the following conditions:</p>	<p><b>2. Remote participation; requirements.</b> A public body subject to this subchapter <i>and whose members are elected</i> may not allow a member of the public body to participate remotely in any of its public proceedings unless the remote participation is in accordance with this subchapter and:</p> <p>A member of the public body who is not physically present at the location identified in the notice required by section 406 may not participate and may not vote in an adjudicatory proceeding.</p>	<p><b>1. Remote access.</b> Notwithstanding any provision of law or municipal charter provision or ordinance to the contrary, the Legislature and any board, commission, agency or authority of a municipality subject to this subchapter</p> <p><b>2. Application to other proceedings.</b> This section does not apply to town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings held pursuant to Title 20-A, section 1482-A.</p>	
When does it apply?				
<p><b>3. Repeal.</b> This section is repealed 30 days after the termination of the state of emergency as set out in subsection 1.</p>		<p><i>Unless a civil emergency declaration provides for an exception,</i></p>		
4. Is a written policy required?				
	<p>A. After notice and hearing the body has adopted a written policy governing the</p>	<p>A. After notice and public hearing, the public body has adopted a written</p>		

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		conditions upon which members of the body may participate in a public proceeding of that body via remote methods;	<p>policy or rule ... The policy must prohibit a member who is participating in the public proceeding remotely from voting on an issue that was discussed in an executive session if the executive session immediately precedes the proceeding in which the vote is taken;</p> <p><b>2. Authorization by vote.</b> A public body consisting of elected members may adopt the policy under subsection 2 only after the constituents of the public body have voted to authorize the public body to adopt the remote participation policy. The public body shall provide notice and hold a separate hearing before adopting the remote participation policy.</p>	
<b>5. Special notice provisions</b>				
A. Notice of the public proceeding has been given in accordance with section 406, and the notice includes the method by which the public may attend in accordance with paragraph C;		E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend via remote methods pursuant to subsection B, the notice must include the means by which members of the public may access the proceeding. Unless the entity has determined that public attendance at a proceeding will be limited solely to remote methods, the notice must also identify a location for members of the public to attend in person; and		B. Notice of the public proceeding has been given in accordance with section 406 and includes the method by which the public may attend in accordance with paragraph A;

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6. Quorum requirements				
		B. For a public body consisting of 3 or fewer members, at least one member is physically present at the location identified in the notice required by section 406; and, for a public body consisting of more than 3 members, a quorum is physically present at the location identified in the notice required by section 406, unless immediate action is imperative and physical presence of a quorum is not reasonably practicable within the period of time in which action must be taken. The determination that a quorum is not required under this paragraph must be made by the presiding officer of the public body and the facts supporting that determination must be included in the minutes of the meeting. A public body consisting of 3 or more members may not consider matters other than those requiring immediate action in a public proceeding held pursuant to this subsection when a quorum is not physically present. Each member must be physically present for at least one proceeding each year;		
7. Voting				
D. All votes taken during the public proceeding are taken by roll call vote.	F. All votes taken during the public proceeding must be taken by roll call vote.	D. All votes taken during the public proceeding are taken by roll call;	D. All votes taken during the public proceeding are taken by roll call vote.	

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<b>8. Public participation</b>				
C. The body determines that participation by the public is through telephonic, video, electronic or other similar means of remote participation; and	<p>B. The policy must require that whenever members of the body may participate via remote methods an opportunity is provided for the public to attend via remote methods, and reasonable modifications must be provided when necessary to afford access to individuals with disabilities, in accordance with the Americans with Disabilities Act, the Maine Human Rights Act and Section 504 of the Rehabilitation Act.</p> <p>D. Pursuant to Title 20-A MRSA §1001, sub-§20 or if the body allows public input during the proceeding, an effective means of communication between the members of the body and public must be provided;</p>		A. The Legislature or board, commission, agency or authority of a municipality determines that participation by the public may be through telephonic, video, electronic or other similar means of remote participation;	
<b>9. Other elements</b>				
<b>A. Executive sessions</b>				
		The policy must prohibit a member who is participating in the public proceeding remotely from voting on an issue that was discussed in an executive session if the executive session immediately precedes the proceeding in which the vote is taken;		
<b>B. Identification of others at the meeting location</b>				
		C. Each member of the public body who is participating in the public proceeding remotely identifies for the record all persons present at the location		

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		from which the member is participating. The member shall note for the record when any person enters or leaves the location throughout the course of the public proceeding;	
<b>C. Documents and materials</b>			
		E. Each member of the public body who is participating in the public proceeding remotely receives any documents or other materials presented or discussed at the public proceeding in advance or when made available at the public proceeding if the transmission technology is available.	
<b>D. Adjudicatory proceedings</b>			
		A member of the public body who is not physically present at the location identified in the notice required by section 406 may not participate and may not vote in an adjudicatory proceeding.	
<b>E. Consequences of failing to comply</b>			
		Failure to comply with this subsection does not invalidate an action of the body.	

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