

Right to Know Advisory Committee
Legislative Subcommittee
DRAFT: Using technology to conduct public proceedings

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

§403-A. Public proceedings through other means of communication

This section governs public proceedings during which public or governmental business is discussed or transacted through telephonic, video, electronic or other means of communication.

1. Requirements. A body subject to this subchapter may conduct a public proceeding during which a member of the body participates in the discussion or transaction of public or governmental business through telephonic, video, electronic or other means of communication only if the following requirements are met.

A. The body has adopted a policy that authorizes a member of the body who is not physically present to participate in a public proceeding through telephonic, video, electronic or other means of communication in accordance with this section.

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

C. A quorum of the body is assembled physically at the location identified in the notice required by section 406.

D. The physical attendance by each member who is participating from another location is not reasonably practical. The reason that each member's physical attendance is not practical must be stated in the record of the public proceeding.

E. Each member of the body participating in the public proceeding is able to simultaneously hear each other and speak to each other during the public proceeding. Members of the public attending the public proceeding in the location identified in the notice required by section 406 are able to hear all members participating from other locations.

F. Each member who is not physically present and who is participating through telephonic, video, electronic or other means of communication identifies the persons present in the location from which the member is participating.

G. All votes taken during the public proceeding are taken by roll call vote.

H. Each member who is not physically present and who is participating through telephonic, video, electronic or other means of communication has received prior to the public proceeding any documents or other materials that will be discussed at the public proceeding, with substantially the same content as those documents actually

presented. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available.

2. Voting. A member of a body who is not physically present and who is participating in the public proceeding through telephonic, video, electronic or other means of communication may not vote:

A. On any issue for which materials are presented at the public proceeding but have not been provided to the member by the time of the vote; or

B. On any issue concerning testimony or other evidence provided during the public proceeding if it is a judicial or quasi-judicial proceeding.

3. Exception to quorum requirement. A body may convene a public proceeding by telephonic, video, electronic or other means of communication without a quorum assembled physically at one location if:

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

B. The public proceeding is necessary to take action to address the emergency; and

C. The body otherwise complies with the provisions of this section.

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

5. Application. Nothing in this section may be construed to:

A. Require a body to conduct a public proceeding in which public or governmental business is discussed or transacted through telephonic, video, electronic or other means of communication, whether or not the members are physically assembled in one location; or

B. Prohibit the use of interactive audio or video means to expand public participation.

Questions:

- *Public hearings?*
- *Application to bodies already authorized by statute to meet through electronic means?*