

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2428 Session of 2022

INTRODUCED BY KNOWLES, JAMES, FREEMAN AND SAPPEY, MARCH 16, 2022

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 27, 2022

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, in open meetings, further providing
3 for definitions, for minutes of meetings, public records and
4 recording of meetings, FOR PUBLIC NOTICE, for public
5 participation and for use of equipment during meetings. <--

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The definition of "public notice" in section 703
9 of Title 65 of the Pennsylvania Consolidated Statutes is amended
10 and the section is amended by adding a definition DEFINITIONS to <--
11 read:

12 § 703. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Authorized telecommunications device." A device which
18 permits, at a minimum, audio communication between individuals.

19 "BROADCAST." THE TRANSMISSION OF A MEETING VIA RADIO, <--

1 TELEVISION, TELECOMMUNICATIONS, INTERNET WEBSITE OR ANY OTHER
2 ELECTRONIC MEANS, WHICH IS INTENDED TO BE RECEIVED BY OR
3 AVAILABLE TO THE PUBLIC. THE TERM SHALL NOT INCLUDE THE
4 RECORDING OF A MEETING.

5 * * *

6 "Public notice."

7 (1) For a meeting:

8 (i) Publication of notice of the place, date ~~[and],~~ <--
9 ~~time, method of broadcast and acceptance of remote public~~ <--
10 ~~comment, if applicable,~~ of a meeting in a newspaper of
11 general circulation, as defined by 45 Pa.C.S. § 101
12 (relating to definitions), which is published and
13 circulated in the political subdivision where the meeting
14 will be held, or in a newspaper of general circulation
15 which has a bona fide paid circulation in the political
16 subdivision equal to or greater than any newspaper
17 published in the political subdivision.

18 (ii) Posting a notice of the place, date [and],
19 ~~time, method of broadcast and acceptance of remote public~~
20 ~~comment, if applicable,~~ of a meeting prominently at the
21 principal office of the agency holding the meeting or at
22 the public building in which the meeting is to be held.

23 (iii) Giving notice to parties under section 709(c)
24 (relating to public notice).

25 (2) For a recessed or reconvened meeting:

26 (i) Posting a notice of the place, date [and], time,
27 ~~method of broadcast and acceptance of remote public~~
28 ~~comment, if applicable,~~ of the meeting prominently at the
29 principal office of the agency holding the meeting or at
30 the public building in which the meeting is to be held.

1 (ii) Giving notice to parties under section 709(c).

2 * * *

3 Section 2. Section 706 of Title 65 is amended by adding a
4 paragraph to read:

5 § 706. Minutes of meetings, public records and recording of
6 meetings.

7 Written minutes shall be kept of all open meetings of
8 agencies. The minutes shall include:

9 * * *

10 (5) A statement disclosing the availability of a
11 broadcast of a meeting and the acceptance of remote public
12 comment, if applicable. If a recording of the meeting is
13 available on an Internet website, the statement shall include
14 the web address or uniform resource locator to the recording
15 of the meeting. AT THE TIME WHEN THE MINUTES OF THE MEETING <--
16 ARE APPROVED.

17 SECTION 3. SECTION 709(C.1) (1) OF TITLE 65 IS AMENDED BY
18 ADDING SUBPARAGRAPHS TO READ:

19 § 709. PUBLIC NOTICE.

20 * * *

21 (C.1) NOTIFICATION OF AGENCY BUSINESS TO BE CONSIDERED.--

22 (1) IN ADDITION TO ANY PUBLIC NOTICE REQUIRED UNDER THIS
23 SECTION, AN AGENCY SHALL PROVIDE THE FOLLOWING NOTIFICATION
24 OF AGENCY BUSINESS TO BE CONSIDERED AT A MEETING AS FOLLOWS:

25 * * *

26 (IV) IF THE AGENCY BROADCASTS THE MEETING, THE
27 AGENDA SHALL INCLUDE INFORMATION ON THE METHOD OF
28 BROADCAST.

29 (V) IF THE AGENCY ADOPTS RULES FOR REMOTE PUBLIC
30 COMMENT UNDER SECTION 711(D) (RELATING TO USE OF

1 EQUIPMENT DURING MEETINGS), THE AGENDA SHALL INCLUDE
2 INFORMATION ON WHERE THE RULES FOR REMOTE PUBLIC COMMENT
3 CAN BE ACCESSED.

4 * * *

5 Section ~~3~~ 4. Sections 710.1 and 711 of Title 65 are amended <--
6 by adding subsections to read:

7 § 710.1. Public participation.

8 * * *

9 (e) Remote public comment.--If a board or council of a
10 political subdivision or of an authority created by a political
11 subdivision adopts rules for remote public comment under section
12 711(d) (relating to use of equipment during meetings), in the
13 event that remote public comment cannot be received by the
14 manner advertised or by a contingency plan under section 711(d)
15 (2) DUE TO AN INTERNET SERVICE OUTAGE OR OTHER TECHNOLOGICAL <--
16 FAILURE OF THE BOARD OR COUNCIL OF A POLITICAL SUBDIVISION OR OF
17 THE AUTHORITY CREATED BY A POLITICAL SUBDIVISION, official
18 action of a matter shall be postponed until the next advertised
19 meeting.

20 § 711. Use of equipment during meetings.

21 * * *

22 (c) Local broadcast rules.--

23 (1) A board or council of a political subdivision or of
24 an authority created by a political subdivision may adopt
25 rules governing the broadcast of a meeting.

26 (2) ~~A board or council~~ EXCEPT AS PROVIDED UNDER <--
27 PARAGRAPH (3), A BOARD OR COUNCIL OF A POLITICAL SUBDIVISION
28 OR OF AN AUTHORITY CREATED BY A POLITICAL SUBDIVISION
29 broadcasting a meeting using an Internet website, mobile
30 application or social media platform shall broadcast the

1 entire meeting except for an executive session.

2 ~~(3) If a recording of a broadcast of a meeting is~~ <--
3 ~~available for public access after the meeting, no portion of~~
4 ~~the broadcast may be omitted or muted from the recording.~~

5 (3) A RECORDING OR BROADCAST OF A MEETING OF THE BOARD <--
6 OR COUNCIL OF A POLITICAL SUBDIVISION OR OF AN AUTHORITY
7 CREATED BY A POLITICAL SUBDIVISION MAY NOT BE MUTED OR EDITED
8 UNLESS IT IS ESSENTIAL TO EXCLUDE SPEECH AT THE MEETING THAT
9 IS NOT PROTECTED BY THE FIRST AMENDMENT OF THE CONSTITUTION
10 OF THE UNITED STATES OR THE SPEECH MAY EXPOSE THE BOARD OR
11 COUNCIL TO LEGAL LIABILITY IF THE SPEECH IS NOT EXCLUDED.
12 SPEECH EXCLUDED UNDER THIS PARAGRAPH SHALL BE EXPLAINED IN
13 THE MINUTES OF THE MEETING. IF A RECORDING OR BROADCAST OF A
14 MEETING IS EDITED, THE BOARD OR COUNCIL SHALL RETAIN AN
15 ARCHIVED COPY OF THE UNEDITED RECORDING OR BROADCAST FOR NO
16 LESS THAN ONE YEAR FOLLOWING THE DATE OF THE MEETING.

17 (d) Remote public comment.--

18 (1) The board or council of a political subdivision or
19 of an authority created by a political subdivision may adopt
20 rules permitting the acceptance of remote public comment by
21 the use of an authorized telecommunications device in <--
22 addition to public comment at the physical location of the
23 meeting under section 710.1 (relating to public
24 participation). NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED <--
25 TO AUTHORIZE THE BOARD OR COUNCIL HOLDING A MEETING AT A
26 PHYSICAL LOCATION TO EXCLUDE PUBLIC PARTICIPATION UNDER
27 SECTION 710.1 AT THE PHYSICAL LOCATION OF THE MEETING.

28 (2) A rule under this subsection may include:

29 (i) A requirement that an individual seeking to
30 offer public comment must demonstrate that the individual

1 is entitled to offer public comment under section
2 710.1(a).

3 (ii) A process to allow an individual seeking to be
4 recognized for remote public comment to be placed on a
5 list or in a virtual queue.

6 (iii) A contingency plan to allow remote public
7 comment to be received during a meeting by telephone
8 audible throughout the meeting location by amplification
9 only if:

10 (A) the advertised authorized telecommunications
11 device is unable to be utilized by the political
12 subdivision or authority during the meeting because
13 of an Internet service outage or other technological
14 failure impacting the device's operation at the
15 meeting location; and

16 (B) a notice placed on the posted meeting agenda
17 provides contact information for the telephone.

18 (3) A BOARD OR COUNCIL OF A POLITICAL SUBDIVISION OR OF <--
19 AN AUTHORITY CREATED BY A POLITICAL SUBDIVISION THAT ADOPTS
20 LOCAL BROADCAST RULES UNDER SUBSECTION (C) MAY NOT MANDATE
21 THE EXCLUSIVE USE OF REMOTE COMMENT, UNLESS THE MEETING IS
22 HELD DUE TO A DECLARATION OF DISASTER EMERGENCY UNDER 35
23 PA.C.S. § 7301(C) (RELATING TO GENERAL AUTHORITY OF GOVERNOR)
24 OR 7501(B) (RELATING TO GENERAL AUTHORITY OF POLITICAL
25 SUBDIVISIONS).

26 ~~(3)~~ (4) Nothing in this section shall be construed to <--
27 authorize the acceptance of written comments through a social
28 media platform, email or web platform as a substitute for
29 public comment under section 710.1.

30 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO <--

1 REQUIRE A BOARD OR COUNCIL OF A POLITICAL SUBDIVISION OR OF
2 AN AUTHORITY CREATED BY A POLITICAL SUBDIVISION TO ACCEPT
3 REMOTE PUBLIC COMMENT AS PART OF THE LOCAL BROADCAST RULES
4 UNDER SUBSECTION (C).

5 Section 4 5. This act shall take effect in 60 days.

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