

2020 Regular Session

HOUSE BILL NO. 798

BY REPRESENTATIVE DWIGHT

PUBLIC MEETINGS: Authorizes public bodies to allow members to participate and vote electronically during certain states of emergency subject to certain conditions

1 AN ACT

2 To enact R.S. 42:17.1, relative to open meetings; to authorize public bodies to conduct  
3 certain meetings electronically during certain states of emergency or disaster; to  
4 provide for requirements related thereto; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:17.1 is hereby enacted to read as follows:

7 §17.1. Exception for meetings during a gubernatorially declared disaster or  
8 emergency

9 A. Notwithstanding any other provision of this Chapter to the contrary, a  
10 public body may conduct and its members may attend and participate in a meeting  
11 via electronic means provided all of the following:

12 (1) The governor has declared a state of emergency or disaster involving a  
13 geographic area within the jurisdiction of the public body and the nature of the  
14 emergency or disaster would cause a meeting of the public body conducted pursuant  
15 to the other provisions of this Chapter to be detrimental to the health, safety, or  
16 welfare of the public.

17 (2) The presiding officer of the public body certifies on the notice of the  
18 meeting that the agenda of the meeting is limited to one or more of the following:

19 (a) Matters that are directly related to the public body's response to the  
20 disaster or emergency and are critical to the health, safety, or welfare of the public.

1           (b) Matters that if they are delayed will cause curtailment of vital public  
2           services or severe economic dislocation and hardship.

3           (c) Matters that are critical to continuation of the business of the public body  
4           and that are not able to be postponed to a meeting held in accordance with the other  
5           provisions of this Chapter due to a legal requirement or other deadline that cannot  
6           be postponed or delayed by the public body.

7           (3) The public body and its presiding officer comply with all of the  
8           requirements of this Section.

9           B. No later than twenty-four hours prior to a meeting conducted pursuant to  
10          the provisions of this Section, the public body shall provide for all of the following:

11          (1) The notice and agenda for the meeting, which shall be posted on the  
12          website of the public body, emailed to any member of the public or the news media  
13          who requests notice of meetings of the public body, and widely distributed to every  
14          known news media outlet that broadcasts or publishes news within the geographic  
15          area within the jurisdiction of the public body.

16          (2) Detailed information regarding how members of the public may  
17          participate in the meeting and submit comments regarding matters on the agenda,  
18          which information shall be posted on the website of the public body, emailed to any  
19          member of the public or the news media who requests notice of meetings of the  
20          public body, and widely distributed to every known news media outlet that  
21          broadcasts or publishes news within the geographic area within the jurisdiction of the  
22          public body.

23          C. For each meeting conducted pursuant to this Section:

24          (1) The public body shall provide a mechanism to receive public comment  
25          electronically both prior to and during the meeting.

26          (2) The public body shall properly identify and acknowledge all public  
27          comments during the meeting and shall maintain those comments in its record of the  
28          meeting.

1           (3) The presiding officer of the public body shall ensure that each person  
2           participating in the meeting is properly identified.

3           (4) The presiding officer shall ensure that all parts of the meeting, excluding  
4           any matter discussed in executive session, are clear and audible to all participants in  
5           the meeting including the public.

6           D. For the purposes of this Section, the following words and phrases shall  
7           have the following meanings:

8           (1) "Meeting via electronic means" shall mean a meeting occurring via  
9           teleconference or video conference.

10          (2) "Teleconference" shall mean a method of communication which enables  
11          persons in different locations to participate in a meeting and to hear and otherwise  
12          communicate with each other.

13          (3) "Video conference" shall mean a method of communication which  
14          enables persons in different locations to participate in a meeting and to see, hear, and  
15          otherwise communicate with each other.

16          Section 2. Any action taken at a meeting conducted pursuant to and in accordance  
17 with the provisions of Section 4 of Proclamation Number JBE 2020-30 during the COVID-  
18 19 public health emergency shall not be subject to the provisions of R.S. 42:24 and any  
19 member of a public body who participated in a meeting conducted pursuant to and in  
20 accordance with the provisions of Section 4 of Proclamation Number JBE 2020-30 during  
21 the COVID-19 public health emergency shall not be subject to the provisions of R.S. 42:28.

22          Section 3. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 798 Reengrossed

2020 Regular Session

Dwight

**Abstract:** Authorizes public bodies to conduct meetings via electronic means during certain gubernatorially declared disasters or emergencies subject to certain conditions.

Present law (R.S. 42:11 et seq.—Open Meetings Law) defines "meeting" as the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power and the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power.

Provides that every meeting of any public body shall be open to the public unless closed pursuant to present law. Provides that all votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document. Present law provides relative to public comment at meetings of public bodies other than school boards and legislative bodies. Provides that each such public body shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. Authorizes a governing body to adopt reasonable rules and restrictions regarding such comment period. Provides that each school board except the Orleans Parish School Board shall allow public comment at any meeting of the school board prior to taking any vote. Provides that there shall be a comment period for each agenda item which shall precede each agenda item. Provides that a comment period for all comments at the beginning of a meeting shall not suffice to meet the requirements of present law. Provides that the Orleans Parish School Board, at any meeting of the school board, shall provide an opportunity for public comment subject to reasonable rules, regulations, and restrictions as adopted by the school board.

Present law provides relative to notice of meetings of public bodies other than legislative bodies. Provides procedures and requirements for giving such notice. Requires written public notice of a meeting no later than 24 hours before the meeting. Requires such notice to include the agenda of the meeting. Prohibits changes to the agenda less than 24 hours prior to the meeting. Requires each item on the agenda to be listed separately and described with reasonable specificity.

Proposed law authorizes a public body to conduct a meeting via electronic means provided all of the following:

- (1) The governor has declared a state of emergency or disaster involving an area within the jurisdiction of the public body and the nature of the emergency or disaster would cause a meeting conducted pursuant to present law to be detrimental to the health, safety, or welfare of the public.
- (2) The presiding officer of the public body certifies on the notice of the meeting that the agenda is limited to one or more of the following:
  - (a) Matters directly related to the public body's response to the disaster or emergency that are critical to the health, safety, or welfare of the public.
  - (b) Matters that if delayed will cause curtailment of vital public services or severe economic dislocation and hardship.

- (c) Matters critical to continuation of the business of the public body and that are not able to be postponed to a meeting held in accordance with present law due to a legal requirement or other deadline that cannot be postponed or delayed by the public body.
- (3) The public body and its presiding officer comply with all of the requirements of proposed law.

Proposed law requires, no later than 24 hours prior to a meeting conducted pursuant to proposed law, the public body to provide for (a) the notice and agenda for the meeting, which shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body, and widely distributed to every known news media outlet that broadcasts or publishes news within the geographic area within the jurisdiction of the public body and (b) detailed information regarding how members of the public may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body, and widely distributed to every known news media outlet that broadcasts or publishes news within the geographic area within the jurisdiction of the public body.

Proposed law further requires:

- (1) The public body to provide a mechanism to receive public comment electronically both prior to and during the meeting.
- (2) The public body to identify and acknowledge all public comments during the meeting and to maintain those comments in its record of the meeting.
- (3) The presiding officer of the public body to ensure that each person participating in the meeting is properly identified.
- (4) The presiding officer to ensure that all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting including the public.

Proposed law defines for its purposes "meeting via electronic means", "teleconference", and "video conference".

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 42:17.1)