

# HOUSE . . . . . No. 5031

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 18, 2022.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, Senate No. 2037) of Julian Cyr and Sarah K. Peake for legislation relative to virtual meetings of appointed statewide public bodies, the petition (accompanied by Senate, No. 2055) of Paul R. Feeney for legislation to permit enhanced public access to deliberations of public bodies and to permit improved efficiency of public bodies, the petition (accompanied by Senate, No. 2082) of Jason M. Lewis, Kay Khan, Joanne M. Comerford, Jack Patrick Lewis and other members of the General Court for legislation to modernize participation in public meetings, the petition (accompanied by bill, Senate, No. 2104) of Rebecca L. Rausch, James J. O'Day and Joanne M. Comerford for legislation to update the Open Meeting Law to support remote participation, the petition (accompanied by bill, House, No. 3111) of Antonio F. D. Cabral and others relative to violations of the open meeting law, the petition (accompanied by bill, House, No. 3152) of Denise C. Garlick and others for legislation to further regulate the participation in public meetings, the petition (accompanied by bill, House, No. 3213) of James J. O'Day and Rebecca L. Rausch for legislation to further regulate the Open Meeting Law to support remote participation, the petition (accompanied by bill, House, No. 3224) of Maria Duaine Robinson, Tricia Farley-Bouvier and others relative to virtual meetings of appointed statewide public bodies, the petition (accompanied by bill, House, No. 3227) of Jeffrey N. Roy for legislation to permit enhanced public access to deliberations of public bodies and to permit improved efficiency of public bodies and the petition (accompanied by bill, House, No. 3826) of Lindsay N. Sabadosa relative to remote participation in state public meetings, reports recommending that the accompanying bill (House, No. 5031) ought to pass.

For the committee,

ANTONIO F. D. CABRAL.

**HOUSE . . . . . No. 5031**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act to modernize participation in public meetings.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 18 of chapter 30A of the General Laws, as appearing in 2020  
2 Official Edition, is hereby amended by inserting after the word “meeting”, in line 9, the  
3 following word:- information.

4           SECTION 2. Section 18 of said chapter 30A, as so appearing, is hereby further amended  
5 by inserting at the end thereof the following:-

6           “Remote access,” access through the internet, video conferencing or other video  
7 technology that allows the public to view and, when permitted or required, participate in a  
8 meeting of a public body remotely from a location other than the meeting location.

9           “Remote participation,” participation by a member of a public body in a meeting of that  
10 public body through internet, video conferencing or other video technology remotely from a  
11 location other than the meeting location.

12 SECTION 3. Chapter 30A is hereby amended by striking out section 20 and inserting in  
13 place thereof the following section:

14 Section 20 (a) Except as provided in section 21, all meetings of a public body shall be  
15 physically open, and remotely accessible, to the public.

16 (b) Except in an emergency, in addition to any notice otherwise required by law, a public  
17 body shall post notice of every meeting at least 48 hours prior to the meeting, excluding  
18 Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon  
19 as reasonably possible prior to the meeting. Notice shall be printed in a legible, easily  
20 understandable format and shall contain the date, time and place of the meeting and a listing of  
21 topics that the chair reasonably anticipates will be discussed at the meeting.

22 (c) For meetings of a local public body, notice shall be filed with the municipal clerk and  
23 posted to the municipal website by the municipal clerk and may be posted in a manner  
24 conspicuously visible to the public at all hours in or on the municipal building in which the  
25 clerk's office is located. For meetings of a regional or district public body, notice shall be filed  
26 and posted in each city or town within the region or district in the manner prescribed for local  
27 public bodies and notice shall be posted on the regional or district public body's website. For  
28 meetings of a regional school district, the secretary of the regional school district committee shall  
29 be considered to be its clerk and shall file notice with the clerk of each city or town within the  
30 district and the clerk of such each city or town shall post the notice in the manner prescribed for  
31 local public bodies, and notice shall be posted on the regional school district's website. For  
32 meetings of a county public body, notice shall be filed in the office of the county commissioners  
33 for the county and shall be posted on the county public body's website, and notice may be posted

34 in a manner conspicuously visible to the public at all hours in the places as the county  
35 commissioners shall designate for the purpose.

36 For meetings of a state public body, notice shall be filed with the attorney general by  
37 posting on a website under the procedures established for this purpose and a duplicate copy of  
38 the notice shall be filed with the regulations division in the state secretary's office and notice  
39 shall be posted on the state public body's website, or the website of its parent agency.

40 The chair of a public body may petition the attorney general for the use of an alternative  
41 method of notice where the use of a website is unduly burdensome or presents a hardship to the  
42 public body or regional school district. The attorney general may prescribe or approve alternative  
43 methods of notice where the attorney general determines that the use of a website is unduly  
44 burdensome or presents a hardship and the alternative methods will afford effective notice to the  
45 public.

46 (d) (1) All public bodies shall provide for remote access and remote participation at every  
47 meeting.

48 (2) Members of a public body participating physically or participating remotely in a  
49 meeting shall participate in the same manner for the duration of that meeting. A public body,  
50 other than a local commission on disability, shall have at least one-third of its members  
51 physically present at all meetings and members participating remotely may vote, count towards  
52 the quorum, and shall not be deemed absent for the purposes of section 23D of chapter 39. The  
53 chair of a local commission on disability or, in the chair's absence, the person authorized to chair  
54 the meeting of a local commission on disability, shall be physically present at the meeting  
55 location.

56 (3) Members of a state public body participating physically or participating remotely in a  
57 meeting shall participate in the same manner for the duration of that meeting. A state public body  
58 shall have at least one of its members physically present at all meetings and members  
59 participating remotely may vote, count towards the quorum, and shall not be deemed absent for  
60 the purposes of section 23D of chapter 39. All meetings of a state public body shall be video  
61 recorded with access to the recording posted on the website of the public body within 10  
62 business days after the meeting.

63 (4) Remote access allowing the public to view or participate in the deliberations of a  
64 public body shall be available without any paid subscription, toll, or similar charge. All public  
65 bodies shall ensure remote access to meetings is accessible to persons with disabilities and  
66 provided in such a manner as to ensure equal opportunity to such persons. Public bodies shall  
67 include captioning, which may be provided through automatic speech recognition technology, or  
68 other reasonable accommodations if needed, consistent with the American Disabilities Act and  
69 chapter 151B to persons with disabilities remotely accessing the meeting.

70 (6) All public bodies shall ensure that remote participation by members is accessible to  
71 members with disabilities and provided in such a manner as to ensure equal opportunity to such  
72 members. Public bodies shall include captioning, which may be provided through automatic  
73 speech recognition technology, or other reasonable accommodations if needed, consistent with  
74 the American Disabilities Act and chapter 151B to persons with disabilities participating  
75 remotely.

76 (e) After notifying the chair of the public body, any person may make a video or audio  
77 recording of an open session of a meeting of a public body, or may transmit the meeting through

78 any medium, subject to reasonable requirements of the chair as to the number, placement and  
79 operation of equipment used so as not to interfere with the conduct of the meeting. At the  
80 beginning of the meeting, the chair shall inform other attendees of any recordings.

81 (f) No person shall address a meeting of a public body without permission of the chair,  
82 and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings  
83 of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt  
84 the proceedings, the chair may order the person to withdraw from the meeting and if the person  
85 does not withdraw, the chair may authorize a constable or other officer to remove the person  
86 from the meeting.

87 (g) Within 2 weeks of qualification for office, all persons serving on a public body shall  
88 certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting  
89 law, regulations promulgated under section 25 and a copy of the educational materials prepared  
90 by the attorney general explaining the open meeting law and its application under section 19.  
91 Unless otherwise directed or approved by the attorney general, the appointing authority, city or  
92 town clerk or the executive director or other appropriate administrator of a state or regional body,  
93 or their designees, shall obtain certification from each person upon entering service and shall  
94 retain it subject to the applicable records retention schedule where the body maintains its official  
95 records. The certification shall be evidence that the member of a public body has read and  
96 understands the requirements of the open meeting law and the consequences of violating it.

97 SECTION 4. Section 22 of chapter 30A of the General Laws, as appearing in the 2020  
98 Official Edition, is hereby amended by striking subsection (a) and inserting in place thereof the  
99 following subsections:-

100 (a) A public body shall create and maintain accurate minutes of all meetings, including  
101 executive sessions, setting forth the date, time and place, the members present or absent, a  
102 summary of the discussions on each subject, a list of documents and other exhibits used at the  
103 meeting, the decisions made, and the actions taken at each meeting, including the record of all  
104 votes. Minutes of all meetings, including executive sessions, shall be created, and approved by  
105 the following meeting or within 30 days, whichever is later, unless the public body can show  
106 good cause for further delay.

107 SECTION 5. Section 22 of said chapter 30A, as so appearing, is hereby further amended  
108 by striking subsection (c) and inserting in place thereof the following:-

109 (c) The minutes of an open session, if they exist and whether approved or in draft form,  
110 shall be made available upon request to any person within 10 business days. A public body may,  
111 within 10 business days, refer the requester to the public body's website where the requested  
112 minutes, whether approved or in draft form, may be found. Within 10 business days of approval,  
113 minutes of an open session shall be posted to the public body's website.

114 SECTION 6. Said Section 22 of said chapter 30A, as so appearing, is hereby further  
115 amended by inserting after the word "meeting", in line 60, the following words:-

116 Within 10 business days of a determination that continued non-disclosure of executive  
117 session minutes is no longer warranted, such executive session minutes shall be posted to the  
118 public body's website.

119 SECTION 7. Said section 22 of said chapter 30A, as so appearing, is hereby further  
120 amended by inserting after the word "review", in line 69, the following words:-



121 A public body may, within 10 business days, refer the requester to the public body's  
122 website where the requested minutes may be found if all requested minutes have been released to  
123 the public.

124 SECTION 8. Section 23 of said chapter 30A, as so appearing, is hereby amended by  
125 inserting after the word "violation", in line 34, the following words: or a civil penalty of not  
126 more than \$200 against any member of a public body for a third or subsequent knowing  
127 violation. A civil penalty against an individual member of a public body shall not be  
128 reimbursable with public funds.

129 SECTION 9. Subsection (c) of said section 23 of said Chapter 30A, as so appearing, is  
130 hereby further amended by striking out the seventh clause and inserting in place thereof the  
131 following clauses:- (7) issue a private education letter to a member of a public body; (8)  
132 reprimand a member of a public body; provided, however, that no member of a public body shall  
133 be reprimanded unless the attorney general has issued a private education letter to said member  
134 within the past twelve months; or; (9) prescribe other appropriate action.

135 SECTION 10. Subsection (f) of said section 23 of said Chapter 30A, as so appearing, is  
136 hereby further amended by inserting at the end thereof the following paragraph:-

137 The remedy created hereby is not exclusive but shall be in addition to every other  
138 available remedy. In an action brought by 3 or more registered voters, such order of notice may  
139 also require the public body to reimburse said voters reasonable attorney's fees and court costs.

140 SECTION 11. Section 30A of chapter 20 of the acts of 2021, inserted by section 10 of  
141 chapter 22 of the acts of 2022, is hereby amended by striking out the words "July 15, 2022" and  
142 inserting in place thereof the following words:- March 31, 2023.

SECTION 12. Sections 1 through 10 of this act shall take effect on April 1, 2023.