

SENATE No. 2024**The Commonwealth of Massachusetts**

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to modernize participation in public meetings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/26/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/26/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/26/2023</i>
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>1/30/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/30/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/1/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/1/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/3/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/3/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/7/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/7/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/7/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/10/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>2/10/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/13/2023</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>2/21/2023</i>

<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/3/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>3/13/2023</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/14/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/20/2023</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/27/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>4/13/2023</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>4/19/2023</i>
<i>Liz Miranda</i>	<i>Second Suffolk</i>	<i>5/3/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/13/2024</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>6/11/2024</i>
<i>Pavel Payano</i>	<i>First Essex</i>	<i>6/11/2024</i>

SENATE No. 2024

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 2024) of Jason M. Lewis, Angelo J. Puppolo, Jr., Joanne M. Comerford, Brian W. Murray and other members of the General Court for legislation to modernize participation in public meetings. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2082 OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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 the 2020
2 Official Edition, is hereby amended by inserting the following:-

3 “Hybrid meeting”, a meeting conducted simultaneously in a public place that is open and
4 physically accessible to the public and via remote access.

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

SECTION 2. Said chapter 30A is hereby further amended by striking out section 20 and inserting in place thereof the following sections:

Section 20. (a) All meetings of a public body shall be open to the public, except for a meeting of a public body in executive session as provided in section 21. All meetings of a public body shall be conducted as hybrid meetings, except for public bodies operating under a hardship waiver, as provided in section 20B.

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

(c) Such notice shall be filed and posted in the following manner:

(i) For meetings of a local public body, notice shall be filed with the municipal clerk, who shall post it to the municipal website and in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

(ii) For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies and notice shall be posted on the regional or district public body's website.

(iii) For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within the district and each city or town clerk shall post the notice in the manner prescribed for local public bodies, and notice shall be posted on the regional school district's website.

(iv) For meetings of a county public body, notice shall be filed in the office of the county commissioners for the county and shall be posted on the county public body's website, and in a manner conspicuously visible to the public at all hours in the places as the county commissioners shall designate for the purpose.

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

(d) A local public body, other than a local commission on disability, shall have at least one-third of its members physically present at all meetings. A member of the public body may participate in any meeting via remote access if such member is unable to be physically present at the public meeting location due to extraordinary circumstances, including but not limited to disability, illness, or caregiving responsibilities.

A state public body shall have at least one of its members physically present at all meetings.

(e) Members participating remotely shall not be deemed absent for the purposes of section 23D of chapter 39, shall count towards the quorum, and shall be permitted to vote remotely.

(f) All meetings of a state public body shall be video recorded by the body, and the recording shall be posted on the website of the public body within 10 business days after the meeting.

After notifying the chair, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting.

At the beginning of the meeting, the chair shall inform other attendees of any recordings.

(g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and, if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting or may cause the person's remote access to be restricted. The chair must exercise the powers conferred by this section in conformity with constitutional free speech protections. A public body shall not restrict public comment based on its content or viewpoint; provided, however, that a public body may limit public comment if the public comment: (i) pertains to matters outside the jurisdiction of the public body; (ii) does not pertain to the specific topics to which a particular meeting or portion of a meeting is dedicated; or (iii) is speech that clearly qualifies as a true threat or incitement to imminent unlawful conduct under constitutional standards.

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

(i) Nothing in this section shall relieve a public body of the obligation to provide reasonable accommodations to persons with disabilities under the Americans with Disabilities Act.

Section 20A.

Remote access shall be subject to the following rules:

(i) A public body shall provide remote access without any paid subscription, toll, or similar charge.

(ii) All public bodies shall ensure remote access to meetings is accessible to persons with disabilities and provided in such a manner as to ensure effective communication and equal opportunity to participate to such persons. Consistent with the Americans with Disabilities Act, public bodies shall provide reasonable accommodations to persons with disabilities remotely accessing a meeting.

(iii) Members of a public body, whether participating in person at a physical meeting location or via remote access, shall participate in the same manner for the duration of that meeting.

(iv) The public body shall ensure that all its members can be heard and seen by members of the public while the meeting is being conducted.

(v) Members of the public participating via remote access shall maintain their video cameras on when offering public comment.

Section 20B.

(a) Public bodies that are open to the public shall be required to conduct all meetings as hybrid meetings, except as provided below.

(b) A municipality may request a hardship waiver from the attorney general's office on behalf of any non-elected local public body or bodies that for reasons of economic hardship and despite best efforts are unable to conduct hybrid meetings.

A public body that is granted a hardship waiver shall be relieved of the obligation to conduct hybrid meetings and shall instead conduct its meetings via remote access.

If the attorney general's office determines that for reasons of economic hardship and despite best efforts the public body is unable to conduct its meetings via remote access, the public body shall conduct its meetings in a public place that is open and physically accessible to the public.

A hardship waiver may be renewed annually, upon a written finding by the attorney general's office; provided, however, that the municipality demonstrates substantial efforts to

secure funding to enhance its technical and staffing capacity to conduct its meetings in a hybrid manner, including applying to the municipal hybrid meeting grant program established in section 12 of chapter 7D, or otherwise to overcome the reasons for requesting the waiver.

The attorney general's office may not issue or renew a hardship waiver to be effective beyond January 1, 2030.

(c) A hardship waiver may not be issued to a state public body.

SECTION 3. Chapter 29 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting after Section QQQQQ the following section:-

Section 2RRRRR. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Municipal Hybrid Meeting Trust Fund that shall be administered by the office of municipal and school technology within the executive office of information technology services and security for the purpose of assisting municipalities expand their remote and hybrid meeting capabilities for non-elected municipal bodies so that they may better serve their constituents. The fund shall be credited with appropriations, bond proceeds or other money authorized or transferred by the general court and specifically designated to be credited to the fund, and any interest earned on such money. Revenues deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year. No expenditure made from the fund shall cause the fund to become deficient.

SECTION 4. Chapter 7D of the General Laws is hereby amended by inserting the following new section:-

Section 12. (a) There shall be a competitive grant program developed and administered by the office of municipal and school technology within the executive office of information technology services and security for the implementation by municipalities of hybrid meetings for non-elected municipal public bodies. This grant program shall provide funds for the acquisition and adoption of technology to enable hybrid meetings and technical assistance to support hybrid meeting implementation. The commissioner may expend funds for this grant program from the Municipal Hybrid Meeting Trust Fund established in section 2RRRRR of chapter 29, hereinafter the trust fund.

(b) All grant applications shall include but not be limited to: (i) a plan for enabling all non-elected public bodies in the municipality to conduct hybrid meetings, including technology and meeting space upgrades and technical assistance; and (ii) a preliminary estimate of the cost of the plan.

(c) In approving grant applications, the office of municipal and school technology may give preference to applications from municipalities in rural areas and gateway cities.

(d) A municipality that is awarded funds pursuant to this section shall submit to the office of municipal and school technology a report describing how such funds have been expended, the municipality's implementation of hybrid meetings across non-elected public bodies, and any remaining gaps in implementation of hybrid meetings.

(e) Money in the trust fund may be used to support the replication and the dissemination of best practices generated through the competitive grant program.

(f) Annually, not later than December 1, the office of municipal and school technology shall submit a report detailing expenditures from the trust fund to the clerks of the senate and

157 house of representatives, the chairs of the senate and house committees on ways and means and
158 the chairs of the joint committee on state administration and regulatory oversight.

159 SECTION 4. Section 20B of chapter 30A is hereby repealed.

160 SECTION 5. Section 20 of chapter 30A is hereby amended by striking out subsection (a)
161 and inserting in place thereof:-

162 (a) Except as provided in section 21, all meetings of a public body shall be open to the
163 public, except for a meeting of a public body in executive session as provided in section 21. All
164 meetings of a public body shall be conducted as hybrid meetings.

165 SECTION 6. Sections 4 and 5 shall take effect on January 1, 2030.

166 SECTION 7. Sections 1 and 2 shall take effect 180 days after the effective date of this
167 act.