



# 2007 Legislature Amends the Open Meeting Law

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The Open Meeting Law was amended to provide for a telephonic or other electronic meeting in case of a health pandemic or an emergency declared under Chapter 12 of Minnesota Statutes<sup>1</sup>, the Emergency Management Act. There are conditions that must be met, however, before the public entity can utilize this procedure.

A meeting governed by the Open Meeting Law may be conducted by telephone or other electronic means so long as the following conditions are met:

The presiding officer, chief legal counsel, or chief administrative officer for the affected governing body determines that an in-person meeting or a meeting conducted under section 13D.02 (interactive television) is not practical or prudent because of a health pandemic or an emergency declared under chapter 12;

All members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

Members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration;

At least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless not feasible due to the health pandemic or emergency declaration; and

All votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

The new law provides that each member of the body participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a meeting, to the extent practical, the public body shall allow a person to monitor the meeting electronically from a remote location. The body

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<sup>1</sup> Chapter 12 is the Emergency Management Act.

may require the person making a connection to pay for the documented additional cost that the body incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special or emergency meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of subdivision 3<sup>2</sup>. The timing and method of providing notice is governed by Section 13D.04<sup>3</sup> of the Open Meeting Law.

Public bodies should be mindful that the 2007 changes to the Open Meeting Law allow for electronic meetings only in the case of a health pandemic or declared emergency. Although "health pandemic" is not defined in the statute, it would seem prudent for the presiding officer, chief legal counsel or chief administrative officer for the governing body to seek a declaration or confirmation from the public health officer that a pandemic does exist prior to invoking the procedures of the telephonic or electronic open meeting.

The new law became effective August 1, 2007.

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2 Subdivision 3 provides that the public can monitor the meeting electronically from a remote location, to the extent practicable.

3 Section 13D.04 of Minnesota Statutes is the provision of the open meeting law that governs notice requirements for regular meetings, special meetings, emergency meetings and recessed or continued meetings. In other words the current law applies to the noticing of open meetings under the 2007 legislative changes for telephonic or electronic meetings.