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TO: Valerie Rosenson, Legislative Officer, Board of Representatives

FROM: Michael Toma, Assistant Corporation Counsel

DATE: January 25, 2022

RE: Remote Meetings

The Legislative and Rules Committee has requested an opinion commenting on the legality of a proposed amendment to the Rules of the Board of Representatives that would permit the Board to permanently have the option of meeting remotely.

The proposal is legal, because state law does not prohibit electronic meetings. The Connecticut Freedom of Information Act permitted electronic meetings even before the pandemic. The FOIA has for many years defined a meeting as “any hearing or other proceeding of a public agency . . . whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.” Consequently, if and when temporary and/or executive orders issued by the Governor expire, the proposal will still be legal.

The FOIA guarantees the public the right to attend meetings of the Board and its committees. This right was augmented by the State General Assembly in Public Act 21-2, which went into effect on July 1, 2021 and is set to expire on April 30, 2022. During this time period, if a public agency holds remote meetings, it must act in accordance with the provisions of this Public Act, as follows:

❖ **Regular Meetings Held Solely or In Part Using Electronic Equipment**

➤ **Notice and Agenda:**

- **Not less than 48 hours** before a public agency conducts a regular meeting using electronic equipment, the agency must provide:
 - (1) Direct notification in writing or by electronic transmission to each member of the public agency; and
 - (2) Post a notice that the agency intends to conduct the meeting solely or in part using electronic equipment. Such notice must be posted as follows:
 - i) in the agency's regular office or place of business;
 - ii) in the office and on the website of the Secretary of the State for any state or quasi-public agency; in the clerk's office for any agency of a political subdivision of the state; or in the clerk's office for each municipal member of any multitown district or agency; and
 - iii) on the agency's website, if available
- **Not less than 24 hours** before a public agency conducts a regular meeting using electronic equipment, the agency must post a meeting agenda. Such agenda must be posted as follows:
 - i) in the agency's regular office or place of business;
 - ii) in the office and on the website of the Secretary of the State for any state or quasi-public agency; in the clerk's office for any agency of a political subdivision of the state; or in the clerk's office for each municipal member of any multitown district or agency; and

iii) on the agency's website, if available.

- The notice and agenda must (1) be posted in accordance with the provisions of section 1-225 of the FOI Act and (2) include instructions for the public to attend and provide comment or otherwise participate in the meeting, if permitted.

➤ **Additional Requirements for Regular Meetings Held Solely Using Electronic Equipment:**

- If a public agency intends to hold a regular meeting solely using electronic equipment, the agency must:
 - (1) Provide any member of the public, upon request, with a physical location and any electronic equipment necessary to attend the meeting in real-time.
 - a. Such request must be submitted in writing and not less than 24-hours prior to the meeting.
 - (2) Allow such individual the same opportunities to provide comment or otherwise participate in the meeting as would be afforded if the meeting was held in person, with the following exception:
 - a. The public agency is not required to adjourn or postpone a meeting if such person loses the ability to participate because of an interruption, failure or degradation of such person's connection to the meeting by electronic equipment.
 - (3) Record or transcribe the meeting, except for any portion of an executive session.
 - a. Any recordings or transcriptions must be posted on the agency's website and made available to the public to view, listen to and copy in the agency's office or regular place of business not later than 7 days after the meeting.
 - b. Any recordings or transcriptions must be available to the public for at least 45 days after the meeting.
 - (4) If a quorum of the members of a public agency attend a meeting by means of electronic equipment from the same physical location, permit members of the public to attend the meeting from that physical location.
- If a member of a public agency loses the ability to participate because of an interruption, failure or degradation of that member's connection to the meeting by electronic equipment, the public agency is not required to adjourn or postpone a meeting unless such member's participation is necessary to form a quorum.

❖ **Special Meetings Held Solely or in Part Using Electronic Equipment**

➤ **Notice and Agenda:**

- The notice and agenda must:
 - (1) Be posted not less than 24 hours prior to the special meeting in accordance with the provisions of section 1-225 of the FOI Act;
 - (2) Include whether the special meeting will be conducted solely or in part using electronic equipment; and
 - (3) Include instructions for the public to attend and provide comment or otherwise participate in the meeting, if permitted.

❖ **Votes Taken By Roll Call at Regular and Special Meetings Held Using Electronic Equipment:**

- Any vote taken at a meeting during which any member of the public agency participates using electronic equipment must be taken by roll call, unless the vote is unanimous.

❖ **Minutes for Regular and Special Meetings Held Using Electronic Equipment:**

- The minutes for a meeting during which any member of the public agency participates using electronic equipment must list the members who attended the meeting in person and those members who attended the meeting using electronic equipment.
- The minutes must also be made available and posted in accordance with the provisions of section 1-225 of the FOI Act.

❖ **Participation at Regular and Special Meetings Held Using Electronic Equipment:**

- **Opportunity for Public to Comment or other Otherwise Participate:**
 - A public agency is not required to offer members of the public who attend a meeting using electronic equipment the opportunity for public comment or other participation if such opportunity is not required for members of the public who attend a public meeting in person.
- **Requirement for Member of Public Agency and Public to Identify Self:**
 - Any member of a public agency or the public who participates orally in a meeting held using electronic equipment must make a “good faith effort” to state such person’s name and title, if applicable, at the outset of each occasion that such person participates orally during an uninterrupted dialogue or series of questions and answers.

❖ **Interruption of Regular or Special Meeting Due to the Failure, Disconnection or Degradation of Electronic Equipment - Resumption of Meeting:**

- If a meeting is interrupted due to the failure, disconnection or, in the chairperson's determination, unacceptable degradation of electronic equipment, or if a member necessary to form a quorum loses the ability to participate due to the failure, disconnection or degradation of the member's connection, the public agency may resume the meeting in accordance with the following:
 - The meeting may be resumed not less than 30 minutes and not more than 2 hours from the time of interruption or the chairperson's determination.
 - The meeting may be resumed:
 - (1) in person, if a quorum is present in person, or
 - (2) if a quorum is restored by means of electronic equipment, solely or in part by such equipment.
 - If a meeting is resumed, then the public agency must:
 - (1) Restore electronic access to the public if such capability has been restored; and
 - (2) Post, if practicable, a notification on the agency's website of the expected time of resumption or of the adjournment or postponement of the meeting.
 - At the beginning of any meeting, the public agency may announce what preplanned procedures are in place for resumption of a meeting that is interrupted.

❖ **Interruption of Regular or Special Meeting Held Using Electronic Equipment Due to Disorderly Conduct:**

- If a meeting is interrupted by any person or groups of persons attending such meeting by electronic equipment so as to render the orderly conduct of such meeting unfeasible and order cannot be restored, the public agency may terminate such person's or group of persons' attendance by electronic equipment until such person or persons conforms to order, or, if need be, until such meeting is closed.