

Date: (Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1274, L.D. 1832, Bill, "An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Remote Participation"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'PART A

Sec. A-1. 1 MRSA §403-A is enacted to read:

§403-A. Remote participation in public proceedings

It is the intent of the Legislature that actions of public bodies subject to this subchapter be taken openly and their deliberations be conducted openly. This section governs participation in a public proceeding of such a public body by a member of that public body when the member is not physically present. Remote participation, which means participation through telephonic, video, electronic or other similar means of communication may not be used to defeat the purposes of this subchapter as stated in section 401. The Legislature may not allow its members to participate remotely in public proceedings of the Legislature.

1. Remote participation; requirements. Except as provided in subsection 5, a public body subject to this subchapter may not allow a member of the public body to participate remotely in any of its public proceedings unless the participation is in accordance with this subchapter and:

A. After notice and public hearing, the public body has adopted a written policy or rule that authorizes a member of the public body who is not physically present to participate in a public proceeding of that public body in a manner that allows all members to simultaneously hear and speak to each other during the public proceeding and allows members of the public attending the public proceeding at the location identified in the notice required by section 406 to hear all members of the public body. The policy may not allow remote participation in executive sessions. The

COMMITTEE AMENDMENT

1 policy must prohibit a member who is participating remotely from voting on an issue
2 that was discussed in an executive session if the executive session immediately
3 precedes the proceeding in which the vote is taken;

4 B. For public bodies consisting of 3 or fewer members, at least one member is
5 physically present at the location identified in the notice required by section 406; and,
6 for public bodies of more than 3 members, a quorum is physically present at the
7 location identified in the notice required by section 406, unless immediate action is
8 imperative and physical presence of a quorum is not reasonably practicable within the
9 period of time in which action must be taken. The determination that a quorum is not
10 required under this paragraph must be made by the presiding officer of the public
11 body and the facts supporting that determination must be included in the record of the
12 meeting. A public body of 3 or more members may not consider matters other than
13 those requiring immediate action in a public proceeding held pursuant to this
14 subsection when a quorum is not physically present. Every member must be
15 physically present for at least one proceeding each year;

16 C. Each member of the public body who is participating in the public proceeding
17 remotely identifies for the record all persons present at the location from which the
18 member is participating. The member shall note for the record when any person
19 enters or leaves the location throughout the course of the public proceeding;

20 D. All votes taken during the public proceeding are taken by roll call;

21 E. A member of the public body who is not physically present at the location
22 identified in the notice required by section 406 does not participate and does not vote
23 in an adjudicatory proceeding; and

24 F. Each member of the public body who is participating in the public proceeding
25 remotely receives any documents or other materials presented or discussed at the
26 public proceeding in advance or when made available at the public proceeding if the
27 transmission technology is available. Failure to comply with this subsection does not
28 invalidate an action of the body.

29 **2. State public bodies.** The policy under subsection 1 applicable to a state public
30 body must be adopted by the public body as a major substantive rule under the Maine
31 Administrative Procedure Act.

32 **3. County and municipal public bodies.** A county or municipality may by
33 ordinance require stricter requirements than those set out in this section and may prohibit
34 remote participation by any public body under its jurisdiction.

35 **4. Elected public bodies.** A public body consisting of elected members may adopt a
36 policy under subsection 1 only after the constituents of the public body have voted to
37 authorize the public body to adopt the remote participation policy. The public body must
38 provide notice and hold a separate hearing before adopting the remote participation
39 policy.

40 **5. Exceptions.** The following public bodies are exempt from the provisions of this
41 section and a member of the following bodies may participate in a public proceeding of
42 the public body when the member is not physically present:

43 A. The Finance Authority of Maine, as provided in Title 10, section 971;

1 B. The Commission on Governmental Ethics and Election Practices, as provided in
2 Title 21-A, section 1002, subsection 2;

3 C. The Maine Health and Higher Educational Facilities Authority, as provided in
4 Title 22, section 2054, subsection 4;

5 D. The Maine State Housing Authority, as provided in Title 30-A, section 4723,
6 subsection 2, paragraph B;

7 E. The Maine Municipal Bond Bank, as provided in Title 30-A, section 5951,
8 subsection 4;

9 F. The Emergency Medical Services' Board, as provided in Title 32, section 88,
10 subsection 1, paragraph D; and

11 G. The Workers' Compensation Board, as provided in Title 39-A, section 151,
12 subsection 5.

13 This subsection is repealed July 1, 2022.

14 **PART B**

15 **Sec. B-1. 10 MRSA §971**, as amended by PL 1995, c. 117, Pt. C, §1, is repealed.

16 **Sec. B-2. 10 MRSA §971-A** is enacted to read:

17 **§971-A. Actions of the members**

18 **1. Quorum required.** Seven members of the authority constitute a quorum of the
19 members. The affirmative vote of the greater of 5 members, present and voting, or a
20 majority of those members present and voting is necessary for any action taken by the
21 members. A vacancy in the membership of the authority does not impair the right of the
22 quorum to exercise all powers and perform all duties of the members.

23 **2. Emergency meeting.** Notwithstanding any other provision of law, in a situation
24 determined by the chief executive officer to be an emergency requiring action of the
25 members on not more than 3 days' oral notice, an emergency meeting of the members
26 may be conducted by telephone in accordance with the following.

27 A. A conference call to the members must be placed by ordinary commercial means
28 at an appointed time.

29 B. The authority shall arrange for recordation of the conference call when
30 appropriate and prepare minutes of the emergency meeting.

31 C. Public notice of the emergency meeting must be given in accordance with Title 1,
32 section 406 and that public notice must include the time of the meeting and the
33 location of a telephone with a speakerphone attachment that enables all persons
34 participating in the telephone meeting to be heard and understood and that is
35 available for members of the public to hear the business conducted at the telephone
36 meeting.

37 This subsection is repealed July 1, 2022.

1 **Sec. B-3. 21-A MRSA §1002, sub-§2**, as amended by PL 2011, c. 389, §2, is
2 further amended to read:

3 **2. Telephone meetings.** The commission may hold meetings over the telephone if
4 necessary, as long as the commission provides notice to all affected parties in accordance
5 with the rules of the commission and the commission's office remains open for attendance
6 by complainants, witnesses, the press and other members of the public. Notwithstanding
7 Title 1, chapter 13, telephone meetings of the commission are permitted:

8 A. During the 28 days prior to an election when the commission is required to meet
9 within 2 business days of the filing of any complaint with the commission; or

10 B. To address procedural or logistical issues before a monthly meeting, such as the
11 scheduling of meetings, deadlines for parties' submission of written materials, setting
12 of meeting agenda, requests to postpone or reschedule agenda items, issuing
13 subpoenas for documents or witnesses and recusal of commission members.

14 This subsection is repealed July 1, 2022.

15 **Sec. B-4. 22 MRSA §2054, sub-§4**, as amended by PL 2015, c. 449, §2, is
16 further amended to read:

17 **4. Powers of authority.** The powers of the authority are vested in its members, and
18 5 members of the authority constitute a quorum at any meeting of the authority. A
19 vacancy in the membership of the authority does not impair the right of a quorum to
20 exercise all the rights and perform all the duties of the authority. An action taken by the
21 authority under this chapter may be authorized by resolution approved by a majority of
22 the members present at any regular or special meeting, which resolution takes effect
23 immediately, or an action taken by the authority may be authorized by a resolution
24 circularized or sent to each member of the authority, which resolution takes effect at such
25 time as a majority of the members have signed an assent to such resolution. Resolutions
26 of the authority need not be published or posted. The authority may delegate by
27 resolution to one or more of its members or its executive director such powers and duties
28 as it considers proper.

29 ~~The authority may meet by telephonic, video, electronic or other similar means of~~
30 ~~communication with less than a quorum assembled physically at the location of a public~~
31 ~~proceeding identified in the notice required by Title 1, section 406 only if:~~

32 ~~A. Each member can hear all other members, speak to all other members and, to the~~
33 ~~extent reasonably practicable, see all other members by videoconferencing or other~~
34 ~~similar means of communication during the public proceeding, and members of the~~
35 ~~public attending the public proceeding at the location identified in the notice required~~
36 ~~by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see~~
37 ~~all members participating from other locations by videoconferencing or other similar~~
38 ~~means of communication;~~

39 ~~B. Each member who is not physically present at the location of the public~~
40 ~~proceeding and who is participating through telephonic, video, electronic or other~~
41 ~~similar means of communication identifies all persons present at the location from~~
42 ~~which the member is participating;~~

1 ~~C. A member who participates while not physically present at the location of the~~
2 ~~public proceeding identified in the notice required by Title 1, section 406 does so~~
3 ~~only when the member's attendance is not reasonably practical. The reason that the~~
4 ~~member's attendance is not reasonably practical must be stated in the minutes of the~~
5 ~~meeting; and~~

6 ~~D. Each member who is not physically present at the location of the public~~
7 ~~proceeding and who is participating through telephonic, video, electronic or other~~
8 ~~similar means of communication has received prior to the public proceeding all~~
9 ~~documents and materials discussed at the public proceeding, with substantially the~~
10 ~~same content as those presented at the public proceeding. Documents or other~~
11 ~~materials made available at the public proceeding may be transmitted to the member~~
12 ~~not physically present during the public proceeding if the transmission technology is~~
13 ~~available. Failure to comply with this paragraph does not invalidate an action taken~~
14 ~~by the authority at the public proceeding.~~

15 **Sec. B-5. 22 MRSA §2054, sub-§4-A** is enacted to read:

16 **4-A. Remote participation in meetings.** The authority may meet by telephonic,
17 video, electronic or other similar means of communication with less than a quorum
18 assembled physically at the location of a public proceeding identified in the notice
19 required by Title 1, section 406 only if:

20 A. Each member can hear all other members, speak to all other members and, to the
21 extent reasonably practicable, see all other members by videoconferencing or other
22 similar means of communication during the public proceeding, and members of the
23 public attending the public proceeding at the location identified in the notice required
24 by Title 1, section 406 are able to hear and, to the extent reasonably practicable, see
25 all members participating from other locations by videoconferencing or other similar
26 means of communication;

27 B. Each member who is not physically present at the location of the public
28 proceeding identified in the notice required by Title 1, section 406 and who is
29 participating through telephonic, video, electronic or other similar means of
30 communication identifies all persons present at the location from which the member
31 is participating;

32 C. A member who participates while not physically present at the location of the
33 public proceeding identified in the notice required by Title 1, section 406 does so
34 only when the member's attendance is not reasonably practicable. The reason that the
35 member's attendance is not reasonably practicable must be stated in the minutes of
36 the meeting; and

37 D. Each member who is not physically present at the location of the public
38 proceeding identified in the notice required by Title 1, section 406 and who is
39 participating through telephonic, video, electronic or other similar means of
40 communication has received prior to the public proceeding all documents and
41 materials discussed at the public proceeding, with substantially the same content as
42 those presented at the public proceeding. Documents or other materials made
43 available at the public proceeding may be transmitted to the member not physically
44 present during the public proceeding if the transmission technology is available.

1 Failure to comply with this paragraph does not invalidate an action taken by the
2 authority at the public proceeding.

3 This subsection is repealed July 1, 2022.

4 **Sec. B-6. 30-A MRSA §4723, sub-§2, ¶B**, as amended by PL 2015, c. 449, §3,
5 is further amended to read:

6 B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, must
7 have 10 commissioners, 8 of whom must be appointed by the Governor, subject to
8 review by the joint standing committee of the Legislature having jurisdiction over
9 economic development and to confirmation by the Legislature. The 9th
10 commissioner is the Treasurer of State who serves as an ex officio voting member.
11 The Treasurer of State may designate the Deputy Treasurer of State to serve in place
12 of the Treasurer of State. The 10th commissioner is the director of the Maine State
13 Housing Authority who serves as an ex officio nonvoting member. At least 3
14 gubernatorial appointments must include a representative of bankers, a representative
15 of elderly people and a resident of housing that is subsidized or assisted by programs
16 of the United States Department of Housing and Urban Development or of the Maine
17 State Housing Authority. In appointing the resident, the Governor shall give priority
18 consideration to nominations that may be made by tenant associations established in
19 the State. Of the 5 remaining gubernatorial appointments, the Governor shall give
20 priority to a representative involved in the housing business and a representative of
21 people with disabilities. The powers of the Maine State Housing Authority are vested
22 in the commissioners. The commissioners may delegate such powers and duties to
23 the director of the Maine State Housing Authority as they determine appropriate.

24 The Governor shall appoint the chair of the commissioners from among the 8
25 gubernatorial appointments. The chair serves as a nonvoting member, except that the
26 chair may vote only when the chair's vote will affect the result. The commissioners
27 shall elect a vice-chair of the commissioners from among their number.

28 Following reasonable notice to each commissioner, 5 commissioners of the Maine
29 State Housing Authority constitute a quorum for the purpose of conducting its
30 business, exercising its powers and for all other purposes, notwithstanding the
31 existence of any vacancies. Action may be taken by the commissioners upon a vote
32 of a majority of the commissioners present, unless otherwise specified in law or
33 required by its bylaws.

34 ~~The Maine State Housing Authority may meet by telephonic, video, electronic or~~
35 ~~other similar means of communication with less than a quorum assembled physically~~
36 ~~at the location of a public proceeding identified in the notice required by Title 1,~~
37 ~~section 406 only if:~~

38 ~~(1) Each commissioner can hear all other commissioners, speak to all other~~
39 ~~commissioners and, to the extent reasonably practicable, see all other~~
40 ~~commissioners by videoconferencing or other similar means of communication~~
41 ~~during the public proceeding, and members of the public attending the public~~
42 ~~proceeding at the location identified in the notice required by Title 1, section 406~~
43 ~~are able to hear and, to the extent reasonably practicable, see all commissioners~~

1 ~~participating from other locations by videoconferencing or other similar means of~~
2 ~~communication;~~

3 ~~(2) Each commissioner who is not physically present at the location of the public~~
4 ~~proceeding and who is participating through telephonic, video, electronic or other~~
5 ~~similar means of communication identifies all persons present at the location~~
6 ~~from which the commissioner is participating;~~

7 ~~(3) A commissioner who participates while not physically present at the location~~
8 ~~of the public proceeding identified in the notice required by Title 1, section 406~~
9 ~~does so only when the commissioner's attendance is not reasonably practical.~~
10 ~~The reason that the commissioner's attendance is not reasonably practical must be~~
11 ~~stated in the minutes of the meeting; and~~

12 ~~(4) Each commissioner who is not physically present at the location of the public~~
13 ~~proceeding and who is participating through telephonic, video, electronic or other~~
14 ~~similar means of communication has received prior to the public proceeding all~~
15 ~~documents and materials discussed at the public proceeding, with substantially~~
16 ~~the same content as those presented at the public proceeding. Documents or~~
17 ~~other materials made available at the public proceeding may be transmitted to the~~
18 ~~commissioner not physically present during the public proceeding if the~~
19 ~~transmission technology is available. Failure to comply with this subparagraph~~
20 ~~does not invalidate an action taken by the Maine State Housing Authority at the~~
21 ~~public proceeding.~~

22 **Sec. B-7. 30-A MRSA §4723, sub-§2, ¶B-1** is enacted to read:

23 B-1. The Maine State Housing Authority may meet by telephonic, video, electronic
24 or other similar means of communication with less than a quorum assembled
25 physically at the location of a public proceeding identified in the notice required by
26 Title 1, section 406 only if:

27 (1) Each commissioner can hear all other commissioners, speak to all other
28 commissioners and, to the extent reasonably practicable, see all other
29 commissioners by videoconferencing or other similar means of communication
30 during the public proceeding, and members of the public attending the public
31 proceeding at the location identified in the notice required by Title 1, section 406
32 are able to hear and, to the extent reasonably practicable, see all commissioners
33 participating from other locations by videoconferencing or other similar means of
34 communication;

35 (2) Each commissioner who is not physically present at the location of the public
36 proceeding identified in the notice required by Title 1, section 406 and who is
37 participating through telephonic, video, electronic or other similar means of
38 communication identifies all persons present at the location from which the
39 commissioner is participating;

40 (3) A commissioner who participates while not physically present at the location
41 of the public proceeding identified in the notice required by Title 1, section 406
42 does so only when the commissioner's attendance is not reasonably practicable.

1 The reason that the commissioner's attendance is not reasonably practicable must
2 be stated in the minutes of the meeting; and

3 (4) Each commissioner who is not physically present at the location of the public
4 proceeding identified in the notice required by Title 1, section 406 and who is
5 participating through telephonic, video, electronic or other similar means of
6 communication has received prior to the public proceeding all documents and
7 materials discussed at the public proceeding, with substantially the same content
8 as those presented at the public proceeding. Documents or other materials made
9 available at the public proceeding may be transmitted to the commissioner not
10 physically present during the public proceeding if the transmission technology is
11 available. Failure to comply with this subparagraph does not invalidate an action
12 taken by the Maine State Housing Authority at the public proceeding.

13 This paragraph is repealed July 1, 2022.

14 **Sec. B-8. 30-A MRSA §5951, sub-§4**, as amended by PL 2015, c. 449, §4, is
15 further amended to read:

16 **4. Officers of board; exercise of powers.** The board of commissioners shall elect
17 one of its members as chair and one as vice-chair and shall appoint an executive director
18 who also serves as both secretary and treasurer. The powers of the bank are vested in the
19 commissioners of the bank in office from time to time. Three commissioners of the bank
20 constitute a quorum at any meeting of the commissioners. Action may be taken and
21 motions and resolutions adopted by the bank at any meeting by the affirmative vote of at
22 least 3 commissioners of the bank. A vacancy in the office of commissioner of the bank
23 does not impair the right of a quorum of the commissioners to exercise all the powers and
24 perform all the duties of the bank.

25 ~~The board of commissioners may meet by telephonic, video, electronic or other similar~~
26 ~~means of communication with less than a quorum assembled physically at the location of~~
27 ~~a public proceeding identified in the notice required by Title 1, section 406 only if:~~

28 ~~A. Each commissioner can hear all other commissioners, speak to all other~~
29 ~~commissioners and, to the extent reasonably practicable, see all other commissioners~~
30 ~~by videoconferencing or other similar means of communication during the public~~
31 ~~proceeding, and members of the public attending the public proceeding at the location~~
32 ~~identified in the notice required by Title 1, section 406 are able to hear and, to the~~
33 ~~extent reasonably practicable, see all commissioners participating from other~~
34 ~~locations by videoconferencing or other similar means of communication;~~

35 ~~B. Each commissioner who is not physically present at the location of the public~~
36 ~~proceeding and who is participating through telephonic, video, electronic or other~~
37 ~~similar means of communication identifies all persons present at the location from~~
38 ~~which the commissioner is participating;~~

39 ~~C. A commissioner who participates while not physically present at the location of~~
40 ~~the public proceeding identified in the notice required by Title 1, section 406 does so~~
41 ~~only when the commissioner's attendance is not reasonably practical. The reason that~~
42 ~~the commissioner's attendance is not reasonably practical must be stated in the~~
43 ~~minutes of the meeting; and~~

1 ~~D. Each commissioner who is not physically present at the location of the public~~
2 ~~proceeding and who is participating through telephonic, video, electronic or other~~
3 ~~similar means of communication has received prior to the public proceeding all~~
4 ~~documents and materials discussed at the public proceeding, with substantially the~~
5 ~~same content as those presented at the public proceeding. Documents or other~~
6 ~~materials made available at the public proceeding may be transmitted to the~~
7 ~~commissioner not physically present during the public proceeding if the transmission~~
8 ~~technology is available. Failure to comply with this paragraph does not invalidate an~~
9 ~~action taken by the bank at the public proceeding.~~

10 **Sec. B-9. 30-A MRSA §5951, sub-§4-A** is enacted to read:

11 **4-A. Remote participation.** The board of commissioners may meet by telephonic,
12 video, electronic or other similar means of communication with less than a quorum
13 assembled physically at the location of a public proceeding identified in the notice
14 required by Title 1, section 406 only if:

15 A. Each commissioner can hear all other commissioners, speak to all other
16 commissioners and, to the extent reasonably practicable, see all other commissioners
17 by videoconferencing or other similar means of communication during the public
18 proceeding, and members of the public attending the public proceeding at the location
19 identified in the notice required by Title 1, section 406 are able to hear and, to the
20 extent reasonably practicable, see all commissioners participating from other
21 locations by videoconferencing or other similar means of communication;

22 B. Each commissioner who is not physically present at the location of the public
23 proceeding identified in the notice required by Title 1, section 406 and who is
24 participating through telephonic, video, electronic or other similar means of
25 communication identifies all persons present at the location from which the
26 commissioner is participating;

27 C. A commissioner who participates while not physically present at the location of
28 the public proceeding identified in the notice required by Title 1, section 406 does so
29 only when the commissioner's attendance is not reasonably practicable. The reason
30 that the commissioner's attendance is not reasonably practicable must be stated in the
31 minutes of the meeting; and

32 D. Each commissioner who is not physically present at the location of the public
33 proceeding identified in the notice required by Title 1, section 406 and who is
34 participating through telephonic, video, electronic or other similar means of
35 communication has received prior to the public proceeding all documents and
36 materials discussed at the public proceeding, with substantially the same content as
37 those presented at the public proceeding. Documents or other materials made
38 available at the public proceeding may be transmitted to the commissioner not
39 physically present during the public proceeding if the transmission technology is
40 available. Failure to comply with this paragraph does not invalidate an action taken
41 by the bank at the public proceeding.

42 This subsection is repealed July 1, 2022.

43 **Sec. B-10. 32 MRSA §88, sub-§1, ¶D,** as amended by PL 2007, c. 274, §19, is
44 further amended to read:

1 D. A majority of the members appointed and currently serving constitutes a quorum
2 for all purposes and no decision of the board may be made without a quorum present.
3 A majority vote of those present and voting is required for board action, except that
4 for purposes of either granting a waiver of any of its rules or deciding to pursue the
5 suspension or revocation of a license, the board may take action only if the proposed
6 waiver, suspension or revocation receives a favorable vote from at least 2/3 of the
7 members present and voting and from no less than a majority of the appointed and
8 currently serving members. ~~The board may use video conferencing and other~~
9 ~~technologies to conduct its business but is not exempt from Title 1, chapter 13,~~
10 ~~subchapter 1. Members of the board, its subcommittees or its staff may participate in~~
11 ~~a meeting of the board, subcommittees or staff via video conferencing, conference~~
12 ~~telephone or similar communications equipment by means of which all persons~~
13 ~~participating in the meeting can hear each other, and participation in a meeting~~
14 ~~pursuant to this subsection constitutes presence in person at such meeting.~~

15 **Sec. B-11. 32 MRSA §88, sub-§1, ¶E** is enacted to read:

16 E. The board may use videoconferencing and other technologies to conduct its
17 business but is not exempt from Title 1, chapter 13, subchapter 1. Members of the
18 board, its subcommittees or its staff may participate in a meeting of the board,
19 subcommittees or staff via videoconferencing, conference telephone or similar
20 communications equipment by means of which all persons participating in the
21 meeting can hear each other, and participation in a meeting pursuant to this paragraph
22 constitutes presence in person at such meeting.

23 This paragraph is repealed July 1, 2022.

24 **Sec. B-12. 39-A MRSA §151, sub-§5**, as amended by PL 2003, c. 608, §9, is
25 further amended to read:

26 **5. Voting requirements; meetings.** The board may take action only by majority
27 vote of its membership. The board may hold sessions at its central office or at any other
28 place within the State ~~and shall establish procedures through which members who are not~~
29 ~~physically present may participate by telephone or other remote-access technology.~~
30 Regular meetings may be called by the executive director or by any 4 members of the
31 board, and all members must be given at least 7 days' notice of the time, place and agenda
32 of the meeting. A quorum of the board is 4 members, but a smaller number may adjourn
33 until a quorum is present. Emergency meetings may be called by the executive director
34 when it is necessary to take action before a regular meeting can be scheduled. The
35 executive director shall make all reasonable efforts to notify all members as promptly as
36 possible of the time and place of any emergency meeting and the specific purpose or
37 purposes for which the meeting is called. For an emergency meeting, the 4 members
38 constituting a quorum must include at least one board member representing management
39 and at least one board member representing labor.

40 **Sec. B-13. 39-A MRSA §151, sub-§5-A** is enacted to read:

41 **5-A. Remote participation.** The board shall establish procedures through which
42 members who are not physically present may participate by telephone or other
43 remote-access technology.

1 This subsection is repealed July 1, 2022.

2 **PART C**

3 **Sec. C-1. 1 MRSA §431, sub-§4** is enacted to read:

4 **4. Remote participation.** "Remote participation" means participation in a public
5 proceeding by a member of the body that is holding or conducting the public proceeding
6 while the member is not physically present at the location of the public proceeding
7 identified in the notice required by section 406.

8 **Sec. C-2. 1 MRSA §435** is enacted to read:

9 **§435. Review of proposed remote participation authorization**

10 **1. Procedures before legislative committees.** Whenever a legislative measure
11 containing a new remote participation authorization or a change that affects the
12 accessibility of a public proceeding is proposed, the joint standing committee of the
13 Legislature having jurisdiction over the proposal shall hold a public hearing and
14 determine the level of support for the proposal among the members of the committee. If
15 there is support for the proposal among a majority of the members of the committee, the
16 committee shall request the review committee to review and evaluate the proposal
17 pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed
18 remote participation authorization or proposed change that affects the accessibility of a
19 public proceeding may not be enacted into law unless review and evaluation pursuant to
20 subsection 2 have been completed.

21 **2. Review and evaluation.** Upon referral of a proposed remote participation
22 authorization or proposed limitation on accessibility from the joint standing committee of
23 the Legislature having jurisdiction over the proposal, the review committee shall conduct
24 a review and evaluation of the proposal and shall report in a timely manner to the
25 committee to which the proposal was referred. The review committee shall use the
26 following criteria to determine whether the proposed remote participation authorization
27 should be enacted:

28 A. Geographic distribution of members;

29 B. Demonstrated need based on emergency nature of action;

30 C. Demonstrated need based on exigent circumstances, such as a natural disaster or
31 an emergency declaration by the Governor directly related to the activities of the
32 body; and

33 D. Any other criteria that assist the review committee in determining the value of the
34 proposed remote participation authorization as compared to the public's interest in all
35 members participating.

36 **3. Report.** The review committee shall report its findings and recommendations on
37 whether the proposed remote participation authorization or proposed limitation on
38 accessibility to public proceedings should be enacted to the joint standing committee of
39 the Legislature having jurisdiction over the proposal.'

SUMMARY

1
2 This amendment is the minority report of the Joint Standing Committee on Judiciary.
3 This amendment makes the following changes to the bill.

4 1. It prohibits remote participation in executive session. It also prohibits a member
5 who is participating remotely in a proceeding from voting on an issue that was discussed
6 in executive session that immediately preceded the vote in the public proceeding.

7 2. It changes, for public bodies that consist of 3 or fewer members, the requirement
8 that a quorum be physically present. It requires at least one member of the public body of
9 3 or fewer members to be physically present at the location identified in the meeting
10 notice.

11 3. It requires that each member of a public body subject to the Freedom of Access
12 Act be physically present in at least one public proceeding each year.

13 4. It requires that a state public body adopt its remote participation policy as a major
14 substantive rule under the Maine Administrative Procedure Act.

15 5. It authorizes municipalities and counties to impose stricter requirements than are
16 provided in this amendment and allows municipalities and counties to prohibit the use of
17 remote participation by any public body under their jurisdictions. The stricter
18 requirements or the prohibition must be imposed through the adoption of an ordinance by
19 the municipality or the county.

20 6. It provides that an elected public body may adopt a remote participation policy
21 only after the constituency of the elected public body has voted to authorize the body to
22 adopt the policy.

23 7. It provides, in Parts A and B, that the exemptions for the 7 entities whose statutes
24 currently provide for remote participation expire on July 1, 2022. Those entities will
25 need to adopt policies that comply with the law to continue any remote participation.

26 8. It amends, in Part C, the Freedom of Access Act to require the joint standing
27 committee of the Legislature having jurisdiction over judiciary matters to conduct a
28 review of any proposed statutory authorization of remote participation or change in
29 accessibility with respect to public proceedings.