



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4402

Introduced 1/16/2024, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

5 ILCS 120/1.02
5 ILCS 120/7

from Ch. 102, par. 41.02

Amends the Open Meetings Act. Defines the terms "bona fide emergency" and "exigent circumstances". Provides that, if a quorum of the members of a public body is physically present at a meeting, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of, among other things, exigent circumstances concerning a family member (rather than because of, among other things, a family or other emergency).

LRB103 36387 JDS 66488 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Open Meetings Act is amended by changing
5 Sections 1.02 and 7 as follows:

6 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

7 Sec. 1.02. For the purposes of this Act:

8 "Bona fide emergency" means a disaster, an act of terror,
9 or any other occurrence that the public body determines is a
10 threat to the continuity of governmental operations or
11 endangers the health or safety of the public.

12 "Exigent circumstances" means a situation requiring
13 immediate attention, including, but not limited to, injury,
14 sickness, loss of life, or damage to property.

15 "Meeting" means any gathering, whether in person or by
16 video or audio conference, telephone call, electronic means
17 (such as, without limitation, electronic mail, electronic
18 chat, and instant messaging), or other means of
19 contemporaneous interactive communication, of a majority of a
20 quorum of the members of a public body held for the purpose of
21 discussing public business or, for a 5-member public body, a
22 quorum of the members of a public body held for the purpose of
23 discussing public business.

1 Accordingly, for a 5-member public body, 3 members of the
2 body constitute a quorum and the affirmative vote of 3 members
3 is necessary to adopt any motion, resolution, or ordinance,
4 unless a greater number is otherwise required.

5 "Public body" includes all legislative, executive,
6 administrative or advisory bodies of the State, counties,
7 townships, cities, villages, incorporated towns, school
8 districts and all other municipal corporations, boards,
9 bureaus, committees or commissions of this State, and any
10 subsidiary bodies of any of the foregoing including but not
11 limited to committees and subcommittees which are supported in
12 whole or in part by tax revenue, or which expend tax revenue,
13 except the General Assembly and committees or commissions
14 thereof. "Public body" includes tourism boards and convention
15 or civic center boards located in counties that are contiguous
16 to the Mississippi River with populations of more than 250,000
17 but less than 300,000. "Public body" includes the Health
18 Facilities and Services Review Board. "Public body" does not
19 include a child death review team or the Illinois Child Death
20 Review Teams Executive Council established under the Child
21 Death Review Team Act, an ethics commission acting under the
22 State Officials and Employees Ethics Act, a regional youth
23 advisory board or the Statewide Youth Advisory Board
24 established under the Department of Children and Family
25 Services Statewide Youth Advisory Board Act, or the Illinois
26 Independent Tax Tribunal.

1 (Source: P.A. 97-1129, eff. 8-28-12; 98-806, eff. 1-1-15.)

2 (5 ILCS 120/7)

3 Sec. 7. Attendance by a means other than physical
4 presence.

5 (a) If a quorum of the members of the public body is
6 physically present as required by Section 2.01, a majority of
7 the public body may allow a member of that body to attend the
8 meeting by other means if the member is prevented from
9 physically attending because of: (i) personal illness or
10 disability; (ii) employment purposes or the business of the
11 public body; (iii) exigent circumstances concerning a family
12 member ~~a family or other emergency~~; or (iv) unexpected
13 childcare obligations. "Other means" is by video or audio
14 conference.

15 (b) If a member wishes to attend a meeting by other means,
16 the member must notify the recording secretary or clerk of the
17 public body before the meeting unless advance notice is
18 impractical.

19 (c) A majority of the public body may allow a member to
20 attend a meeting by other means only in accordance with and to
21 the extent allowed by rules adopted by the public body. The
22 rules must conform to the requirements and restrictions of
23 this Section, may further limit the extent to which attendance
24 by other means is allowed, and may provide for the giving of
25 additional notice to the public or further facilitate public

1 access to meetings.

2 (d) The limitations of this Section shall not apply to (i)
3 closed meetings of (A) public bodies with statewide
4 jurisdiction, (B) Illinois library systems with jurisdiction
5 over a specific geographic area of more than 4,500 square
6 miles, (C) municipal transit districts with jurisdiction over
7 a specific geographic area of more than 4,500 square miles, or
8 (D) local workforce innovation areas with jurisdiction over a
9 specific geographic area of more than 4,500 square miles or
10 (ii) open or closed meetings of State advisory boards or
11 bodies that do not have authority to make binding
12 recommendations or determinations or to take any other
13 substantive action. State advisory boards or bodies, public
14 bodies with statewide jurisdiction, Illinois library systems
15 with jurisdiction over a specific geographic area of more than
16 4,500 square miles, municipal transit districts with
17 jurisdiction over a specific geographic area of more than
18 4,500 square miles, and local workforce investment areas with
19 jurisdiction over a specific geographic area of more than
20 4,500 square miles, however, may permit members to attend
21 meetings by other means only in accordance with and to the
22 extent allowed by specific procedural rules adopted by the
23 body. For the purposes of this Section, "local workforce
24 innovation area" means any local workforce innovation area or
25 areas designated by the Governor pursuant to the federal
26 Workforce Innovation and Opportunity Act or its reauthorizing

1 legislation.

2 (e) Subject to the requirements of Section 2.06 but
3 notwithstanding any other provision of law, an open or closed
4 meeting subject to this Act may be conducted by audio or video
5 conference, without the physical presence of a quorum of the
6 members, so long as the following conditions are met:

7 (1) the Governor or the Director of the Illinois
8 Department of Public Health has issued a disaster
9 declaration related to public health concerns because of a
10 disaster as defined in Section 4 of the Illinois Emergency
11 Management Agency Act, and all or part of the jurisdiction
12 of the public body is covered by the disaster area;

13 (2) the head of the public body as defined in
14 subsection (e) of Section 2 of the Freedom of Information
15 Act determines that an in-person meeting or a meeting
16 conducted under this Act is not practical or prudent
17 because of a disaster;

18 (3) all members of the body participating in the
19 meeting, wherever their physical location, shall be
20 verified and can hear one another and can hear all
21 discussion and testimony;

22 (4) for open meetings, members of the public present
23 at the regular meeting location of the body can hear all
24 discussion and testimony and all votes of the members of
25 the body, unless attendance at the regular meeting
26 location is not feasible due to the disaster, including

1 the issued disaster declaration, in which case the public
2 body must make alternative arrangements and provide notice
3 pursuant to this Section of such alternative arrangements
4 in a manner to allow any interested member of the public
5 access to contemporaneously hear all discussion,
6 testimony, and roll call votes, such as by offering a
7 telephone number or a web-based link;

8 (5) at least one member of the body, chief legal
9 counsel, or chief administrative officer is physically
10 present at the regular meeting location, unless unfeasible
11 due to the disaster, including the issued disaster
12 declaration; and

13 (6) all votes are conducted by roll call, so each
14 member's vote on each issue can be identified and
15 recorded.

16 (7) Except in the event of a bona fide emergency, 48
17 hours' notice shall be given of a meeting to be held
18 pursuant to this Section. Notice shall be given to all
19 members of the public body, shall be posted on the website
20 of the public body, and shall also be provided to any news
21 media who has requested notice of meetings pursuant to
22 subsection (a) of Section 2.02 of this Act. If the public
23 body declares a bona fide emergency:

24 (A) Notice shall be given pursuant to subsection
25 (a) of Section 2.02 of this Act, and the presiding
26 officer shall state the nature of the emergency at the

1 beginning of the meeting.

2 (B) The public body must comply with the verbatim
3 recording requirements set forth in Section 2.06 of
4 this Act.

5 (8) Each member of the body participating in a meeting
6 by audio or video conference for a meeting held pursuant
7 to this Section is considered present at the meeting for
8 purposes of determining a quorum and participating in all
9 proceedings.

10 (9) In addition to the requirements for open meetings
11 under Section 2.06, public bodies holding open meetings
12 under this subsection (e) must also keep a verbatim record
13 of all their meetings in the form of an audio or video
14 recording. Verbatim records made under this paragraph (9)
15 shall be made available to the public under, and are
16 otherwise subject to, the provisions of Section 2.06.

17 (10) The public body shall bear all costs associated
18 with compliance with this subsection (e).

19 (Source: P.A. 103-311, eff. 7-28-23.)