



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Louis S. Viverito

SYNOPSIS AS INTRODUCED:

5 ILCS 120/2.02	from Ch. 102, par. 42.02
5 ILCS 120/2.05	from Ch. 102, par. 42.05
5 ILCS 120/2.06	from Ch. 102, par. 42.06
5 ILCS 120/7 new	

Amends the Open Meetings Act to allow members of a public body to attend a meeting by electronic means, subject to certain limitations. Requires the physical presence of the person testifying in any contested case, as defined in the Illinois Administrative Procedure Act, unless all parties waive the requirement of physical presence. Requires minutes of all public bodies to reflect whether members were physically present or present by electronic means. Provides that a quorum of the members must be physically present for the public body to vote on the issuance of bonds. Allows a public body to adopt rules concerning attendance at meetings by electronic means. Prohibits electronic communication during the course of a meeting of a public body between members of the public body who are physically present at the meeting. Makes other changes.

LRB093 21186 MKM 47264 b

1 AN ACT concerning open meetings.

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 2.02, 2.05, and 2.06 and by adding Section 7 as
6 follows:

7 (5 ILCS 120/2.02) (from Ch. 102, par. 42.02)

8 Sec. 2.02. Public notice of all meetings, whether open or
9 closed to the public, shall be given as follows:

10 (a) Every public body shall give public notice of the
11 schedule of regular meetings at the beginning of each calendar
12 or fiscal year and shall state the regular dates, times, and
13 places of such meetings. For meetings at which one or more
14 members are present by teleconference, video conference, or
15 other electronic means, all locations at which members of the
16 public may attend must be disclosed in the agenda. An agenda
17 for each regular meeting shall be posted at the principal
18 office of the public body and at the location where the meeting
19 is to be held at least 48 hours in advance of the holding of the
20 meeting. The requirement of a regular meeting agenda shall not
21 preclude the consideration of items not specifically set forth
22 in the agenda. Public notice of any special meeting except a
23 meeting held in the event of a bona fide emergency, or of any
24 rescheduled regular meeting, or of any reconvened meeting,
25 shall be given at least 48 hours before such meeting, which
26 notice shall also include the agenda for the special,
27 rescheduled, or reconvened meeting, but the validity of any
28 action taken by the public body which is germane to a subject
29 on the agenda shall not be affected by other errors or
30 omissions in the agenda. The requirement of public notice of
31 reconvened meetings does not apply to any case where the
32 meeting was open to the public and (1) it is to be reconvened

1 within 24 hours, or (2) an announcement of the time and place
2 of the reconvened meeting was made at the original meeting and
3 there is no change in the agenda. Notice of an emergency
4 meeting shall be given as soon as practicable, but in any event
5 prior to the holding of such meeting, to any news medium which
6 has filed an annual request for notice under subsection (b) of
7 this Section.

8 (b) Public notice shall be given by posting a copy of the
9 notice at the principal office of the body holding the meeting
10 or, if no such office exists, at the building in which the
11 meeting is to be held. The body shall supply copies of the
12 notice of its regular meetings, and of the notice of any
13 special, emergency, rescheduled or reconvened meeting, to any
14 news medium that has filed an annual request for such notice.
15 Any such news medium shall also be given the same notice of all
16 special, emergency, rescheduled or reconvened meetings in the
17 same manner as is given to members of the body provided such
18 news medium has given the public body an address or telephone
19 number within the territorial jurisdiction of the public body
20 at which such notice may be given.

21 (Source: P.A. 88-621, eff. 1-1-95; 89-86, eff. 6-30-95.)

22 (5 ILCS 120/2.05) (from Ch. 102, par. 42.05)

23 Sec. 2.05. Recording meetings.

24 (a) Subject to the provisions of Section 8-701 of the Code
25 of Civil Procedure ~~"An Act in relation to the rights of~~
26 ~~witnesses at proceedings conducted by a court, commission,~~
27 ~~administrative agency or other tribunal in this State which are~~
28 ~~televised or broadcast or at which motion pictures are taken",~~
29 ~~approved July 14, 1953, as amended,~~ any person may record the
30 proceedings at meetings required to be open by this Act by
31 tape, film or other means. The authority holding the meeting
32 shall prescribe reasonable rules to govern the right to make
33 such recordings.

34 If a witness at any meeting required to be open by this Act
35 which is conducted by a commission, administrative agency or

1 other tribunal, refuses to testify on the grounds that he may
2 not be compelled to testify if any portion of his testimony is
3 to be broadcast or televised or if motion pictures are to be
4 taken of him while he is testifying, the authority holding the
5 meeting shall prohibit such recording during the testimony of
6 the witness. Nothing in this Section shall be construed to
7 extend the right to refuse to testify at any meeting not
8 subject to the provisions of Section 8-701 of the Code of Civil
9 Procedure ~~"An Act in relation to the rights of witnesses at~~
10 ~~proceedings conducted by a court, commission, administrative~~
11 ~~agency or other tribunal in this State which are televised or~~
12 ~~broadcast or at which motion pictures are taken", approved July~~
13 ~~14, 1953, as amended.~~

14 (b) In any contested case, as defined by the Illinois
15 Administrative Procedure Act, no live testimony may be offered
16 except upon the physical presence of the person testifying
17 unless all parties to the contested case waive the requirement
18 of physical presence. Affidavits, depositions, or other
19 recorded evidence are otherwise admissible as provided by law.

20 (Source: P.A. 82-378.)

21 (5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

22 Sec. 2.06. Minutes.

23 (a) All public bodies shall keep written minutes of all
24 their open meetings and a verbatim record of all their closed
25 meetings in the form of an audio or video recording. Minutes
26 shall include, but need not be limited to:

27 (1) the date, time and place of the meeting;

28 (2) the members of the public body recorded as either
29 present or absent and whether the members were physically
30 present or present by electronic means; and

31 (3) a summary of discussion on all matters proposed,
32 deliberated, or decided, and a record of any votes taken.

33 (b) The minutes of meetings open to the public shall be
34 available for public inspection within 7 days of the approval
35 of such minutes by the public body.

1 (c) The verbatim record may be destroyed without
2 notification to or the approval of a records commission or the
3 State Archivist under the Local Records Act or the State
4 Records Act no less than 18 months after the completion of the
5 meeting recorded but only after:

6 (1) the public body approves the destruction of a
7 particular recording; and

8 (2) the public body approves minutes of the closed
9 meeting that meet the written minutes requirements of
10 subsection (a) of this Section.

11 (d) Each public body shall periodically, but no less than
12 semi-annually, meet to review minutes and recordings of all
13 closed meetings. At such meetings a determination shall be
14 made, and reported in an open session that (1) the need for
15 confidentiality still exists as to all or part of those minutes
16 or (2) that the minutes or recordings or portions thereof no
17 longer require confidential treatment and are available for
18 public inspection.

19 (e) Unless the public body has made a determination that
20 the verbatim recording no longer requires confidential
21 treatment or otherwise consents to disclosure, the verbatim
22 record of a meeting closed to the public shall not be open for
23 public inspection or subject to discovery in any administrative
24 proceeding other than one brought to enforce this Act. In the
25 case of a civil action brought to enforce this Act, the court
26 may conduct such in camera examination of the verbatim record
27 as it finds appropriate in order to determine whether there has
28 been a violation of this Act. In the case of a criminal
29 proceeding, the court may conduct an in camera examination in
30 order to determine what portions, if any, must be made
31 available to the parties for use as evidence in the
32 prosecution. If the court or administrative hearing officer
33 determines that a complaint or suit brought for noncompliance
34 under this Act is valid it may, for the purposes of discovery,
35 redact from the minutes of the meeting closed to the public any
36 information deemed to qualify under the attorney-client

1 privilege. The provisions of this subsection do not supersede
2 the privacy or confidentiality provisions of State or federal
3 law.

4 (f) Minutes of meetings closed to the public shall be
5 available only after the public body determines that it is no
6 longer necessary to protect the public interest or the privacy
7 of an individual by keeping them confidential.

8 (Source: P.A. 93-523, eff. 1-1-04.)

9 (5 ILCS 120/7 new)

10 Sec. 7. Attendance by electronic means.

11 (a) If a majority of a quorum of the members of the public
12 body are present at the place designated in the notice of the
13 meeting, a public body may allow a member of that body to
14 attend the meeting by electronic means if the member is
15 prevented from physically attending because of: (i) personal
16 illness or disability; (ii) employment purposes or the business
17 of the public body; or (iii) a family or other emergency.
18 Unless a member presents a document from his or her physician
19 attesting to the member's inability to physically attend a
20 meeting or meetings, a member may not attend by electronic
21 means more than half of the regularly scheduled meetings of
22 that public body held in a calendar year.

23 (b) If a member wishes to attend a meeting by electronic
24 means, the member shall notify the recording secretary or clerk
25 of the public body at least 48 hours before the meeting unless
26 impracticable. The public body shall determine if the notice
27 requirement is impracticable on a case-by-case basis.

28 (c) A member shall be considered present for purposes of
29 determining a quorum and voting if the member is present by
30 electronic means unless the public body is voting on an
31 ordinance or a resolution authorizing, approving, or providing
32 for the issuance of bonds (as that term is defined in the Local
33 Government Debt Reform Act).

34 (d) If one or more members of the public body attend a
35 meeting by electronic means, then all votes of the body shall

1 be by roll call.

2 (e) If a member is present by electronic means, then the
3 member must identify himself or herself by name and be
4 recognized by the presiding officer before communicating.

5 (f) Any voice, electronic, or other transmission by
6 electronic means made during the meeting by a member who is
7 attending a public meeting by electronic means shall be made
8 available to the public concurrent with the transmission except
9 for those meetings subject to the exceptions in subsection (c)
10 of Section 2 of this Act.

11 (g) A public body may allow its members to attend a meeting
12 by electronic means only in accordance with and to the extent
13 allowed by rules adopted by the public body. The rules must
14 conform to the requirements and restrictions of this Section,
15 may further limit the extent to which attendance by electronic
16 means is allowed, and may provide for the giving of additional
17 notice to the public or further facilitate public access to
18 meetings.

19 (h) Electronic communication by members of the public body
20 during a public meeting shall be limited to the members of the
21 public body not physically present at the public meeting.
22 Electronic communication between the members of the public body
23 physically present at a public meeting is prohibited during the
24 course of the meeting.