CHAPTER 14--H.F.No. 820

An act relating to Open Meeting Law; providing for recording votes and interactive technology; providing for meetings during certain emergencies; allowing a member of a public body to attend a meeting from a private location more than three times in calendar year 2021; amending Minnesota Statutes 2020, sections 13D.01, subdivisions 4, 5; 13D.015; 13D.02; 13D.021; proposing coding for new law in Minnesota Statutes, chapter 13D.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[13D.001] DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Interactive technology.** "Interactive technology" means a device, software program, or other application that allows individuals in different physical locations to see and hear one another.

Sec. 2. Minnesota Statutes 2020, section 13D.01, subdivision 4, is amended to read:

Subd. 4. **Votes to be kept in journal or minutes.** (a) The votes of the members of the state agency, board, commission, or department; or of the governing body, committee, subcommittee, board, department, or commission on an action taken in a meeting required by this section to be open to the public must be recorded in a journal ~~kept for that purpose~~ or minutes.

(b) The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

Sec. 3. Minnesota Statutes 2020, section 13D.01, subdivision 5, is amended to read:

Subd. 5. **Public access to journal and minutes.** The journal or any minutes used to record votes of a meeting subject to this chapter must be open to the public during all normal business hours where records of the public body are kept.

Sec. 4. Minnesota Statutes 2020, section 13D.015, is amended to read:

13D.015 STATE ENTITY MEETINGS BY TELEPHONE OR ~~OTHER ELECTRONIC MEANS~~ INTERACTIVE TECHNOLOGY.

Subdivision 1. **Application.** This section applies to:

(1) a state agency, board, commission, or department, and a statewide public pension plan defined in section 356A.01, subdivision 24; and

(2) a committee, subcommittee, board, department, or commission of an entity listed in clause (1).

Subd. 2. **Conditions.** An entity listed in subdivision 1 may conduct a meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, by telephone or ~~other electronic means~~ interactive technology so long as the following conditions are met:

(1) all members of the entity participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the entity can hear all discussion and all votes of members of the entity and participate in testimony;

(3) at least one member of the entity is physically present at the regular meeting location; and

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

Subd. 3. **Quorum; participation.** Each member of the entity participating in a meeting by telephone or ~~other electronic means~~ interactive technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 4. **Monitoring from remote site~~; costs~~.** If telephone or ~~another electronic means~~ interactive technology is used to conduct a meeting, the entity, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. ~~The entity may require the person making a connection to pay for documented marginal costs that the entity incurs as a result of the additional connection.~~

Subd. 5. **Notice.** If telephone or ~~another electronic means~~ interactive technology is used to conduct a regular, special, or emergency meeting, the entity shall provide notice of the regular meeting location, of the fact that some members may participate by ~~electronic means~~ interactive technology, and of the provisions of subdivision 4. The timing and method of providing notice is governed by section 13D.04. In addition, the entity must post the notice on its website at least ten days before any regular meeting as defined in section 13D.04, subdivision 1.

Sec. 5. Minnesota Statutes 2020, section 13D.02, is amended to read:

13D.02 OTHER ENTITY MEETINGS ~~CONDUCTED~~ BY INTERACTIVE ~~TV; CONDITIONS~~ TECHNOLOGY.

Subdivision 1. **Conditions.** (a) A meeting governed by section 13D.01, subdivisions 1, 2, 4, and 5, and this section may be conducted by interactive ~~television~~ technology so long as:

(1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;

(2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;

(3) at least one member of the body is physically present at the regular meeting location;

(4) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded; and

(5) each location at which a member of the body is present is open and accessible to the public.

(b) A meeting satisfies the requirements of paragraph (a), although a member of the public body participates from a location that is not open or accessible to the public, if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public, and:

(1) the member is serving in the military and is at a required drill, deployed, or on active duty; or

(2) the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This clause only applies when a state of emergency has been declared under section 12.31, and expires 60 days after the removal of the state of emergency.

Subd. 1a. **Meeting exception.** This section applies to meetings of entities described in section 13D.01, subdivision 1, except meetings of:

(1) a state agency, board, commission, or department, and a statewide public pension plan defined in section 356A.01, subdivision 24; and

(2) a committee, subcommittee, board, department, or commission of an entity listed in clause (1).

Subd. 2. **Members are present for quorum, participation.** Each member of a body participating in a meeting by interactive ~~television~~ technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. **Monitoring from remote site; costs.** If interactive ~~television~~ technology is used to conduct a meeting, to the extent practical, a public body shall allow a person to monitor the meeting electronically from a remote location. ~~The body may require the person making such a connection to pay for documented marginal costs that the public body incurs as a result of the additional connection.~~

Subd. 4. **Notice of regular and all member ~~sites~~ locations.** If interactive ~~television~~ technology is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location and notice of any ~~site~~ location where a member of the public body will be participating in the meeting by interactive ~~television~~ technology, except for the locations of members participating pursuant to subdivision 1, paragraph (b). The timing and method of providing notice must be as described in section 13D.04.

~~Subd. 5. **School boards; interactive technology with an audio and visual link.** A school board conducting a meeting under this section may use interactive technology with an audio and visual link to conduct the meeting if the school board complies with all other requirements under this section.~~

Subd. 6. **Record.** The minutes for a meeting conducted under this section must reflect the names of any members appearing by interactive ~~television~~ technology and state the reason or reasons for the appearance by interactive ~~television~~ technology.

EFFECTIVE DATE. Subdivision 4 is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2020, section 13D.021, is amended to read:

13D.021 MEETINGS ~~BY TELEPHONE OR OTHER ELECTRONIC MEANS; CONDITIONS~~ DURING PANDEMIC OR CHAPTER 12 EMERGENCY.

Subdivision 1. **Conditions.** A meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, may be conducted by telephone or ~~other electronic means~~ interactive technology so long as the following conditions are met:

(1) 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.015 or 13D.02 is not practical or prudent because of a health pandemic or an emergency declared under chapter 12;

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

(3) 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;

(4) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration; and

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

Subd. 2. **Members are present for quorum, participation.** Each member of the body participating in a meeting by telephone or ~~other electronic means~~ interactive technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. **Monitoring from remote site~~; costs~~.** If telephone or ~~another electronic means~~ interactive technology is used to conduct a meeting, to the extent practical, the body shall allow a person to monitor the meeting electronically from a remote location. ~~The body 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.~~

Subd. 4. **Notice of regular and all member sites.** If telephone or ~~another electronic means~~ interactive technology 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~~ interactive technology, and of the provisions of subdivision 3. The timing and method of providing notice is governed by section 13D.04 ~~of the Open Meeting Law~~.

Subd. 5. **Public comment period during health pandemic or emergency.** If attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration and the public body's practice is to offer a public comment period at in-person meetings, members of the public shall be permitted to comment from a remote location during the public comment period of the meeting, to the extent practical.

Sec. 7. **OPEN MEETING LAW; MEMBER PARTICIPATION FROM PRIVATE LOCATION.**

Notwithstanding Minnesota Statutes, section 13D.02, subdivision 1, paragraph (b), a meeting after December 31, 2020, and before July 1, 2021, satisfies the requirements of Minnesota Statutes, section 13D.02, paragraph (a), if a member of a public body participates from a location that is not open or accessible to the public more than three times before July 1, 2021. The location is not required in the notice under Minnesota Statutes, section 13D.02, subdivision 4.

EFFECTIVE DATE. This section is effective retroactively for meetings occurring on or after January 1, 2021.