



Michigan Department of Natural Resources POLICY AND PROCEDURE

17.01-07 – Open Meetings Act Electronic Participation (Issued: 11/05/2020)

Issue/Purpose:

Public Act 228 of 2020 allows for the governing boards of a “public body” to hold meetings electronically, provided the public body establishes procedures for the electronic meetings. The act stipulates that through the year 2020 members of boards can attend remotely for any circumstance.

Starting on January 1, 2021, the act establishes specific limitations on attending remotely: local or statewide state of emergency, declaration of disaster, medical condition, and military duty. Except for military duty, the provisions of attending remotely sunset on December 31, 2021.

Definitions:

Department Administrative Staff – The staff member from the Department of Natural Resources specifically assigned to assist the public body with coordinating and scheduling their meetings.

Members - Members include any member appointed to a board, commission, council, or other public body that is part of the Department of Natural Resources.

OMA – Open Meetings Act.

Public Body – Public Body shall include any board, commission, council, and other public body as defined by the Open Meetings Act that is part of the Department of Natural Resources.

Policy:

The Department of Natural Resources (department) desires to have full attendance and participation by all members of the department’s public bodies. Subject to the requirements of the OMA, the department must adopt procedures to accommodate the absence of any member of the public body for any reason permitted by the OMA. This policy and procedure shall only apply to meetings that are required to be open to the public pursuant to the OMA.

General Information:

Participation and interaction with fellow members of the public body is important and all members should strive to attend meetings in person if permitted. However, the OMA does permit members to participate electronically in limited circumstances. This policy and procedure is intended to allow for electronic participation under the following circumstances:

- **Until December 31, 2020 (and retroactive to March 18, 2020):** Members of the public body may have an electronic meeting for any reason. A physical place is not required for an electronic meeting. Members of the public body and public participants who participate electronically in a meeting are considered present and in attendance at the meeting for all purposes. All members of the public body and public participants may attend electronically.

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- **From January 1, 2021 to December 31, 2021:** Members of a public body may attend and participate in a public meeting electronically for any of the following reasons:
 1. Military duty.
 2. A medical condition (a medical condition means an illness, injury, disability, or other health-related condition), or
 3. A statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or a local official or local governing body that would risk the personal health or safety of members of the public or the members of the public body if the meeting were held in person. For permitting an electronic meeting due to a local state of emergency or state of disaster, this subdivision applies only as follows:
 - i. To permit the electronic attendance of a member of the public body who resides in the affected area.
 - ii. To permit the electronic meeting of a public body that usually holds its meeting in the affected area.
- **After December 31, 2021:** The public body may only allow electronic attendance by a member to accommodate that member's absence due to military duty. Only those members absent due to military duty may participate electronically.

Procedures for Electronic Participation by Members:

1. **Notice of Absence:** If a member cannot be physically present at the main location for a meeting, but can participate electronically, the member must provide the public body chair and department administrative staff reasonable notice (ideally at least 48 hours) so that the public body may post notice of the electronic meeting 18 hours in advance of the scheduled meeting. The notice shall include how to contact that member who is participating electronically in sufficient time before a meeting of the public body to provide input on any business that will come before the public body.
2. **Two-Way Communication Required:** If the public body holds an electronic meeting or a meeting in which one or more members participate electronically, the meeting must be held in a manner that permits two-way communication so that members of the public body can hear and be heard by other members of the public body, and so that public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. The public body may use technology to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the members of the public body and other participants to satisfy the requirements:
 - a. That member of the public be heard by others during the electronic meeting, and
 - b. That members of the public be permitted to address the electronic meeting.
3. **Receipt of Information by Virtual Participant:** A member who participates in a meeting electronically must have access to technology that allows the members to receive the board packet or other documents before the meeting. If material is handed out at the meeting, the public body must send a copy to a member participating electronically, if feasible, or reasonably describe or summarize the contents of the document.
4. **Notice on Website:** If a member is participating in a meeting electrically, as permitted by this procedure and the OMA, the public body must provide notice to the public that the member(s) will be attending electrically. The notice must be posted at least 18 hours in advance of the meeting on the department,s website or on a separate webpage dedicated to

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public notices for non-regularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes the purpose for public notification of non-regularly scheduled or electronic public meeting. The notice must include the following:

- a. Why the public body is meeting electronically.
 - b. How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically.
 - c. How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.
 - d. How persons with disabilities may participate in the meeting.
5. **Agenda on Website:** Because the department directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, on a portion of the website that is fully accessible to the public, make the agenda available to the public at least 2 hours before the electronic meeting begins. This publication of the agenda does not prohibit subsequent amendment of the agenda at the meeting.
6. **Vote; Quorum:** Members who are participating in a meeting electronically are counted when determining whether a quorum is present and have full discussion and voting rights.
7. **Public Announcements:** At each meeting, there shall be a public announcement as follows:
- a. For each member attending the meeting electronically, a public announcement at the outset of the meeting shall be made and included in the meeting minutes, that the member is in fact attending the meeting electronically. This announcement does not require the public body to reveal the reason for electronic attendance.
 - b. If the member is attending the meeting electronically for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting electronically.
8. **Minutes:** For each member attending the meeting electronically, the public announcement mentioned above must be included in the meeting minutes identifying the members that are in fact attending the meeting electronically.
9. **Rules of Electronic Participation by the Public:**
- a. **Public Comment.** Until December 31, 2020, members of the public may attend and participate electronically in electronic meetings. On and after January 1, 2021, or at any in-person meetings held until December 31, 2021, members of the public may only participate electronically to the extent permitted by the OMA.
 - b. **Conditions to Public Comment.** The public body shall not, as a condition of participating in an electronic meeting, require a person to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting.
 - c. **Reasonable Rules.** The public body's rules for public comment, including time limits, shall apply to electronic public comment periods.

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Administering Division:

Legislative and Legal Affairs Office

Related References:

[Public Act No. 228 of 2020](#)

17.01-07 – Open Meetings Act Electronic Participation is hereby approved.



November 5, 2020

Daniel Eichinger, Director

Effective Date