



Senate Box 203078
Harrisburg, PA 17120-3078
(717) 787-7680
Fax (717) 772-4524
lgc@palegislature.us
www.lgc.state.pa.us

**LOCAL GOVERNMENT
COMMISSION**
Created in 1935

EXECUTIVE DIRECTOR
David A. Greene

ASSISTANT DIRECTOR
Kristopher J. Gazsi

MEMBERS

Senator Scott E. Hutchinson
Senator Judy Ward
Senator Cris Dush

Senator Judith L. Schwank
Senator Timothy P. Kearney

Representative R. Lee James
Representative Dan Moul
Representative Jerry Knowles

Representative Robert Freeman
Representative Christina D. Sappey

HB 2428 (Printer's No. 3153) Analysis

Date: May 24, 2022

Amending the Sunshine Act to facilitate internet broadcast of local meetings and permit public comment by telecommunications device.

Prime Sponsor: Representative Knowles

A. Synopsis of Bill

This bill amends the Sunshine Act to facilitate the creation of local rules allowing meetings to be broadcast online and allow public comment via authorized telecommunications devices.

B. Summary and Analysis of Bill

The House Local Government Committee amended HB 2428. The Committee's amendments appear in *italics*.

The bill was further amended on the House floor during Second Consideration. The amendment appears in *bold italics*.

- I. Permitting local rules for internet broadcast.** Political subdivisions and municipal authorities would be permitted to adopt local rules facilitating the broadcast of its meetings using through its website, social media applications or other mobile application. The following conditions apply:
- a. A broadcast meeting must include the entire meeting other than executive sessions.
 - b. If the meeting recording is made available for later viewing, no portion of the broadcast meeting may be omitted, *unless it is essential to exclude speech at the meeting that is not protected by the First Amendment or may expose the agency to legal liability if included.*
 - i. *If the recording or broadcast is edited, those changes must be explained in the meeting minutes.*
 - ii. *If a recording or broadcast is edited, the local agency must retain the original copy of the unedited recording for at least one year following the meeting.*

- c. If the meeting recording is made available on a website, the internet address to the recording must be listed in the minutes.
- II. **Permitting local rules for acceptance of public comment.** Political subdivisions and municipal authorities would be permitted to adopt local rules permitting the public to offer remote public comment by “authorized telecommunications device” in addition to in-person public comment. The following conditions apply:
- a. “Authorized telecommunications device” constitutes a device which allows, at minimum, two-way communications by audio.
 - b. *Local rules may not include a mandate that all public comment be made via “authorized telecommunications devices”, thereby prohibiting comment made in-person, except for periods of a declaration of disaster emergency or “exigent circumstances”.*
 - c. The agency holding a meeting with local rules may require a prospective member of the public offering remote public comment to demonstrate that the person is entitled to public comment under existing law.
 - d. The agency may adopt a process to create a que for interested members of the public to sign up for an opportunity to offer comment.
 - e. If the agency has advertised that the public will be able to offer remote public comment, official action must either be postponed until the next meeting if remote public comment becomes unavailable *due to an internet outage or technological failure of the local agency* or provide a backup procedure to allow public comment to be accepted during the meeting by speakerphone.
- III. **Public notification and records.** A political subdivision or municipal authority offering internet broadcast or remote public comment under I and II must include information regarding the broadcast or public comment to in its existing public notices and meeting minutes, *including the meeting agenda. The meeting agenda must also provide information on where to find local rules adopted for the acceptance of public comment, if applicable.*

C. Relevant Current Law

The Sunshine Act provides for the requirement and manner of the conduct of public meetings by an agency whenever an official action is taken. Existing provisions of the Sunshine Act do not address broadcast of meetings or acceptance of virtual public comment by political subdivisions or municipal authorities.

D. Background of Bill

During the Covid-19 pandemic many local agencies experimented with business meetings made more accessible to the public via internet broadcast on familiar platforms including Facebook, YouTube and others, and in some cases, permitting the acceptance of public comment using teleconference and video conference services. After the Covid-19 emergency rules expired, communities sought additional clarity and flexibility regarding the ongoing use of these technologies.

E. Effect of Bill

This bill would provide clear standards facilitating optional internet broadcast of, and acceptance of virtual public comment at, meetings by political subdivisions and authorities. These provisions are optional, and

would impose no further requirements on a political subdivision or authority that holds a public meeting without virtual public comment or internet broadcast.

F. Issues, Policy Questions and Stakeholder Feedback

This proposal was shared with representatives from the Office of Open Records, The Department of Community and Economic Development, County Commissioners of Pennsylvania, Pennsylvania Municipal League, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of Boroughs, Pennsylvania State Association of Township Supervisors, and Pennsylvania Municipal Authorities Association. Constructive feedback from several organizations was incorporated into the final language of the bill as introduced.

G. Bill History

This bill has not been introduced in any previous session.