

Comment for the Minnesota House State and Local Government Finance
and Policy Committee on HF 4413 from Rich Neumeister, April 9, 2024

Residents in communities across Minnesota could walk into the meeting location of their school district's budget committee, and a city's planning commission, or a county/city group on law enforcement only to find no one at the table except one person with the rest of the members of the public body being seen on a small laptop or a monitor on the wall.

Public body members NOT there could be participating from out of state. Interested parties on the matter being discussed, could be at their side, influencing, one way or the other, and the public will never know. The public would not be able to judge if the members are paying attention or using 'chat' or a similar app to communicate with another public body member or others.

House File 4413, changes significantly the accountability and transparency of local government. It erodes and subverts the ability of the public - to watch - in person their local public bodies policy and determinative process.

Chapter 13D has been amended in the past to deal with technology advances and unforeseen dynamics, but the overriding principle has remained. Local public body members should conduct their business in "public" in a "public place" so that people can "watch" them in action.

As we all note, during the pandemic, serious and valuable interactions in the governing process were lost during virtual meetings.

The citizenry and journalists could not approach committee/board members and staff ahead and after the meetings with questions and inquiries. Subtle give and take between members as they stewed policy/decision compromises were hidden from public view. Community groups were impotent to demonstrate the size of their backing by the number of people that turned out. Messaging through such applications as chat by members of the public body as they were discussing the topic at the same time, which the public did not know about. I could comment more.

There are good reasons for virtual participation by public body members. People might have health issues or family emergencies which create a need for virtual participation. But it should be the exception, not the rule.

There has NOT been an opportunity for interested parties such as open government advocates, legislators, government interests and others to forge solutions balancing the need for public scrutiny of government actions with legitimate circumstances where virtual participation by members of the public body is justifiable.

There is a need for a structured review of the OML because of the technology changes over the decades, but also with the experience of the pandemic. We should do this rather than continue a nickel and dime approach to the OML legislative session. Where those changes can have impact with other parts of the OML, such as notice, compliance, and how materials are presented for the public.

The following are of several suggestions for the bill I communicated to the author:

- The authority which the group is under and appointed for should keep a record of all meetings where an individual participates in a virtual meeting, the entity shall monthly post this on their website, and if members exceed the law as proposed, their appointment automatically ends.
- At least a quorum of the group must participate physically at the regular meeting location.

- To see any or all discussion among members of the body using 'chat' or similar capabilities for interaction among members.

- Group members must notify the agency at the earliest convenience possible if they participate virtually. A separate request and disclosure, by the individual is required for each meeting, which must include a general description of the need to participate remotely. There should be any disclosure if there are any adults in the room with them and the general nature of the person's relationship. And general location.

I would rather see the bill pulled back and have thorough discussion on OML. To have a rigorous review by interested parties. We can discuss this initiative, and lessons we've learned from the COVID experience. To strengthen the principles and objectives of Open Meeting Law, not to weaken them.