



Senate

General Assembly

File No. 525

January Session, 2021

Substitute Senate Bill No. 1074

Senate, April 19, 2021

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING VARIOUS PROVISIONS RELATED TO GOVERNMENT ADMINISTRATION AND COVID-19.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) A public agency may hold
2 any meeting remotely by using a conference call, videoconference or
3 other technology, provided (1) the public has the ability to view or listen
4 to the meeting simultaneously with its occurrence, using telephone,
5 video or other technology, but excluding any portion of the meeting that
6 is an executive session; (2) any such meeting is recorded or transcribed,
7 excluding any portion of the meeting that is an executive session, and
8 such recording or transcript is posted on the agency's Internet web site
9 not later than seven days after the meeting, and made available in the
10 agency's office or regular place of business within a reasonable period
11 of time; (3) the notice and agenda for such meeting is posted on the
12 agency's Internet web site and includes information about what
13 technology will be used for the meeting and by what method the public
14 can access the meeting; (4) any materials relevant to matters on the

15 agenda, including, but not limited to, materials related to specific
16 applications, if applicable, are submitted to the agency a minimum of
17 twenty-four hours prior to the meeting and posted on the agency's
18 Internet web site for public inspection prior to, during and after the
19 meeting, and any exhibits to be submitted by members of the public are,
20 to the extent feasible, submitted to the agency a minimum of twenty-
21 four hours prior to the meeting and posted on the agency's Internet web
22 site for public inspection prior to, during and after the meeting; and (5)
23 any person participating in any such meeting clearly states his or her
24 name and title, if applicable, each time before speaking.

25 (b) The provisions of this section shall not be construed to require the
26 posting of any record that is otherwise exempt from disclosure under
27 any provision of the general statutes.

28 Sec. 2. Section 1-225 of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective from passage*):

30 (a) As used in this subsection, "open to the public" includes, but is not
31 limited to, a remote meeting held pursuant to section 1 of this act. The
32 meetings of all public agencies, except executive sessions, [as defined in
33 subdivision (6) of section 1-200,] shall be open to the public. The votes
34 of each member of any such public agency upon any issue before such
35 public agency shall be reduced to writing and made available for public
36 inspection within forty-eight hours and shall also be recorded in the
37 minutes of the session at which taken. Not later than seven days after
38 the date of the session to which such minutes refer, such minutes shall
39 be available for public inspection and posted on such public agency's
40 Internet web site, if available, except that no public agency of a political
41 subdivision of the state shall be required to post such minutes on an
42 Internet web site unless conducting a remote meeting pursuant to
43 section 1 of this act. Each public agency shall make, keep and maintain
44 a record of the proceedings of its meetings.

45 (b) Each such public agency of the state shall file not later than
46 January thirty-first of each year in the office of the Secretary of the State
47 the schedule of the regular meetings of such public agency for the

48 ensuing year and shall post such schedule on such public agency's
49 Internet web site, if available, except that such requirements shall not
50 apply to the General Assembly, either house thereof or to any committee
51 thereof. Any other provision of the Freedom of Information Act
52 notwithstanding, the General Assembly at the commencement of each
53 regular session in the odd-numbered years, shall adopt, as part of its
54 joint rules, rules to provide notice to the public of its regular, special,
55 emergency or interim committee meetings. The chairperson or secretary
56 of any such public agency of any political subdivision of the state shall
57 file, not later than January thirty-first of each year, with the clerk of such
58 subdivision the schedule of regular meetings of such public agency for
59 the ensuing year, and no such meeting of any such public agency shall
60 be held sooner than thirty days after such schedule has been filed. The
61 chief executive officer of any multitown district or agency shall file, not
62 later than January thirty-first of each year, with the clerk of each
63 municipal member of such district or agency, the schedule of regular
64 meetings of such public agency for the ensuing year, and no such
65 meeting of any such public agency shall be held sooner than thirty days
66 after such schedule has been filed.

67 (c) The agenda of the regular meetings of every public agency, except
68 for the General Assembly, shall be available to the public and shall be
69 filed, not less than twenty-four hours before the meetings to which they
70 refer, (1) in such agency's regular office or place of business, and (2) in
71 the office of the Secretary of the State for any such public agency of the
72 state, in the office of the clerk of such subdivision for any public agency
73 of a political subdivision of the state or in the office of the clerk of each
74 municipal member of any multitown district or agency. For any such
75 public agency of the state, such agenda shall be posted on the public
76 agency's and the Secretary of the State's web sites. Any such agenda of
77 a remote meeting shall comply with the requirements of section 1 of this
78 act. Upon the affirmative vote of two-thirds of the members of a public
79 agency present and voting, any subsequent business not included in
80 such filed agendas may be considered and acted upon at such meetings.

81 (d) Notice of each special meeting of every public agency, except for

82 the General Assembly, either house thereof or any committee thereof,
83 shall be posted not less than twenty-four hours before the meeting to
84 which such notice refers on the public agency's Internet web site, if
85 available, and given not less than twenty-four hours prior to the time of
86 such meeting by filing a notice of the time and place thereof in the office
87 of the Secretary of the State for any such public agency of the state, in
88 the office of the clerk of such subdivision for any public agency of a
89 political subdivision of the state and in the office of the clerk of each
90 municipal member for any multitown district or agency. The secretary
91 or clerk shall cause any notice received under this section to be posted
92 in his office. Such notice shall be given not less than twenty-four hours
93 prior to the time of the special meeting; provided, in case of emergency,
94 except for the General Assembly, either house thereof or any committee
95 thereof, any such special meeting may be held without complying with
96 the foregoing requirement for the filing of notice but a copy of the
97 minutes of every such emergency special meeting adequately setting
98 forth the nature of the emergency and the proceedings occurring at such
99 meeting shall be filed with the Secretary of the State, the clerk of such
100 political subdivision, or the clerk of each municipal member of such
101 multitown district or agency, as the case may be, not later than seventy-
102 two hours following the holding of such meeting. The notice shall
103 specify the time and place of the special meeting and the business to be
104 transacted, and if to be held remotely, shall comply with the
105 requirements of section 1 of this act. No other business shall be
106 considered at such meetings by such public agency. In addition, such
107 written notice shall be delivered to the usual place of abode of each
108 member of the public agency or by electronic means at an address
109 designated by such member, so that the same is received prior to such
110 special meeting. The requirement of delivery of such written notice may
111 be dispensed with as to any member who at or prior to the time the
112 meeting convenes files with the clerk or secretary of the public agency a
113 written waiver of delivery of such notice. Such waiver may be given [by
114 telegram] electronically. The requirement of delivery of such written
115 notice may also be dispensed with as to any member who is actually
116 present at the meeting at the time it convenes. Nothing in this section

117 shall be construed to prohibit any agency from adopting more stringent
118 notice requirements.

119 (e) No member of the public shall be required, as a condition to
120 attendance at a meeting of any such body, to register the member's
121 name, or furnish other information, or complete a questionnaire or
122 otherwise fulfill any condition precedent to the member's attendance.

123 (f) A public agency may hold an executive session [, as defined in
124 subdivision (6) of section 1-200,] upon an affirmative vote of two-thirds
125 of the members of such body present and voting, taken at a public
126 meeting or a remote meeting held pursuant to section 1 of this act and
127 stating the reasons for such executive session. [, as defined in section 1-
128 200.]

129 (g) In determining the time within which or by when a notice, agenda,
130 record of votes or minutes of a special meeting or an emergency special
131 meeting are required to be filed under this section, Saturdays, Sundays,
132 legal holidays and any day on which the office of the agency, the
133 Secretary of the State or the clerk of the applicable political subdivision
134 or the clerk of each municipal member of any multitown district or
135 agency, as the case may be, is closed, shall be excluded.

136 Sec. 3. Section 1-226 of the general statutes is repealed and the
137 following is substituted in lieu thereof (*Effective from passage*):

138 (a) At any meeting of a public agency which is open to the public,
139 pursuant to the provisions of section 1-225, as amended by this act,
140 proceedings of such public agency may be recorded, photographed,
141 broadcast or recorded for broadcast, subject to such rules as such public
142 agency may have prescribed prior to such meeting, by any person or by
143 any newspaper, radio broadcasting company or television broadcasting
144 company, provided any remote meeting shall be available for viewing
145 and recorded in accordance with section 1 of this act. Any recording,
146 radio, television or photographic equipment may be so located within
147 the meeting room as to permit the recording, broadcasting either by
148 radio, or by television, or by both, or the photographing of the

149 proceedings of such public agency. The photographer or broadcaster
150 and its personnel, or the person recording the proceedings, shall be
151 required to handle the photographing, broadcast or recording as
152 inconspicuously as possible and in such manner as not to disturb the
153 proceedings of the public agency. As used [herein] in this section, the
154 term [television shall include] "television" includes the transmission of
155 visual and audible signals by cable.

156 (b) Any such public agency may adopt rules governing such
157 recording, photography or the use of such broadcasting equipment for
158 radio and television stations but, (1) in the absence of the adoption of
159 such rules and regulations by such public agency prior to the meeting,
160 such recording, photography or the use of such radio and television
161 equipment shall be permitted as provided in subsection (a) of this
162 section, and (2) any such rules and regulations concerning remote
163 meetings shall comply with the requirements of section 1 of this act.

164 (c) Whenever there is a violation or the probability of a violation of
165 subsections (a) and (b) of this section the superior court, or a judge
166 thereof, for the judicial district in which such meeting is taking place
167 shall, upon application made by affidavit that such violation is taking
168 place or that there is reasonable probability that such violation will take
169 place, issue a temporary injunction against any such violation without
170 notice to the adverse party to show cause why such injunction should
171 not be granted and without the plaintiff's giving bond. Any person or
172 public agency so enjoined may immediately appear and be heard by the
173 court or judge granting such injunction with regard to dissolving or
174 modifying the same and, after hearing the parties and upon a
175 determination that such meeting should not be open to the public, said
176 court or judge may dissolve or modify the injunction. Any action taken
177 by a judge upon any such application shall be immediately certified to
178 the court to which such proceedings are returnable.

179 Sec. 4. Section 1-228 of the general statutes is repealed and the
180 following is substituted in lieu thereof (*Effective from passage*):

181 The public agency may adjourn any regular or special meeting to a

182 time and place specified in the order of adjournment. Less than a
183 quorum may so adjourn from time to time. If all members are absent
184 from any regular meeting the clerk or the secretary of such body may
185 declare the meeting adjourned to a stated time and place and shall cause
186 a written notice of the adjournment to be given in the same manner as
187 provided in section 1-225, as amended by this act, for special meetings,
188 unless such notice is waived as provided for special meetings, or as
189 provided in section 1 of this act, for remote meetings. A copy of the order
190 or notice of adjournment shall be conspicuously posted on or near the
191 door of the place where the regular or special meeting was held, or in a
192 conspicuous place on the Internet web site of the public agency, within
193 twenty-four hours after the time of the adjournment. When an order of
194 adjournment of any meeting fails to state the hour at which the
195 adjourned meeting is to be held, it shall be held at the hour specified for
196 regular meetings, by ordinance, resolution, by law or other rule.

197 Sec. 5. Section 1-200 of the general statutes is repealed and the
198 following is substituted in lieu thereof (*Effective from passage*):

199 As used in this chapter and section 1 of this act, the following words
200 and phrases shall have the following meanings, except where such
201 terms are used in a context which clearly indicates the contrary:

202 (1) "Public agency" or "agency" means:

203 (A) Any executive, administrative or legislative office of the state or
204 any political subdivision of the state and any state or town agency, any
205 department, institution, bureau, board, commission, authority or official
206 of the state or of any city, town, borough, municipal corporation, school
207 district, regional district or other district or other political subdivision of
208 the state, including any committee of, or created by, any such office,
209 subdivision, agency, department, institution, bureau, board,
210 commission, authority or official, and also includes any judicial office,
211 official, or body or committee thereof but only with respect to its or their
212 administrative functions, and for purposes of this subparagraph,
213 "judicial office" includes, but is not limited to, the Division of Public
214 Defender Services;

215 (B) Any person to the extent such person is deemed to be the
216 functional equivalent of a public agency pursuant to law; or

217 (C) Any "implementing agency", as defined in section 32-222.

218 (2) "Meeting" means any hearing or other proceeding of a public
219 agency, any convening or assembly of a quorum of a multimember
220 public agency, and any communication by or to a quorum of a
221 multimember public agency, whether in person or by means of
222 electronic equipment, to discuss or act upon a matter over which the
223 public agency has supervision, control, jurisdiction or advisory power.
224 "Meeting" does not include: Any meeting of a personnel search
225 committee for executive level employment candidates; any chance
226 meeting, or a social meeting neither planned nor intended for the
227 purpose of discussing matters relating to official business; strategy or
228 negotiations with respect to collective bargaining; a caucus of members
229 of a single political party notwithstanding that such members also
230 constitute a quorum of a public agency; an administrative or staff
231 meeting of a single-member public agency; and communication limited
232 to notice of meetings of any public agency or the agendas thereof. A
233 quorum of the members of a public agency who are present at any event
234 which has been noticed and conducted as a meeting of another public
235 agency under the provisions of the Freedom of Information Act shall not
236 be deemed to be holding a meeting of the public agency of which they
237 are members as a result of their presence at such event.

238 (3) "Caucus" means (A) a convening or assembly of the enrolled
239 members of a single political party who are members of a public agency
240 within the state or a political subdivision, or (B) the members of a
241 multimember public agency, which members constitute a majority of
242 the membership of the agency, or the other members of the agency who
243 constitute a minority of the membership of the agency, who register
244 their intention to be considered a majority caucus or minority caucus, as
245 the case may be, for the purposes of the Freedom of Information Act,
246 provided (i) the registration is made with the office of the Secretary of
247 the State for any such public agency of the state, in the office of the clerk

248 of a political subdivision of the state for any public agency of a political
249 subdivision of the state, or in the office of the clerk of each municipal
250 member of any multitown district or agency, (ii) no member is
251 registered in more than one caucus at any one time, (iii) no such
252 member's registration is rescinded during the member's remaining term
253 of office, and (iv) a member may remain a registered member of the
254 majority caucus or minority caucus regardless of whether the member
255 changes his or her party affiliation under chapter 143.

256 (4) "Person" means natural person, partnership, corporation, limited
257 liability company, association or society.

258 (5) "Public records or files" means any recorded data or information
259 relating to the conduct of the public's business prepared, owned, used,
260 received or retained by a public agency, or to which a public agency is
261 entitled to receive a copy by law or contract under section 1-218,
262 whether such data or information be handwritten, typed, tape-recorded,
263 printed, photostated, photographed or recorded by any other method.

264 (6) "Executive sessions" means a meeting of a public agency at which
265 the public is excluded for one or more of the following purposes: (A)
266 Discussion concerning the appointment, employment, performance,
267 evaluation, health or dismissal of a public officer or employee, provided
268 that such individual may require that discussion be held at an open
269 meeting; (B) strategy and negotiations with respect to pending claims or
270 pending litigation to which the public agency or a member thereof,
271 because of the member's conduct as a member of such agency, is a party
272 until such litigation or claim has been finally adjudicated or otherwise
273 settled; (C) matters concerning security strategy or the deployment of
274 security personnel, or devices affecting public security; (D) discussion
275 of the selection of a site or the lease, sale or purchase of real estate by the
276 state or a political subdivision of the state when publicity regarding such
277 site, lease, sale, purchase or construction would adversely impact the
278 price of such site, lease, sale, purchase or construction until such time as
279 all of the property has been acquired or all proceedings or transactions
280 concerning same have been terminated or abandoned; and (E)

281 discussion of any matter which would result in the disclosure of public
282 records or the information contained therein described in subsection (b)
283 of section 1-210.

284 (7) "Personnel search committee" means a body appointed by a public
285 agency, whose sole purpose is to recommend to the appointing agency
286 a candidate or candidates for an executive-level employment position.
287 Members of a "personnel search committee" shall not be considered in
288 determining whether there is a quorum of the appointing or any other
289 public agency.

290 (8) "Pending claim" means a written notice to an agency which sets
291 forth a demand for legal relief or which asserts a legal right stating the
292 intention to institute an action in an appropriate forum if such relief or
293 right is not granted.

294 (9) "Pending litigation" means (A) a written notice to an agency which
295 sets forth a demand for legal relief or which asserts a legal right stating
296 the intention to institute an action before a court if such relief or right is
297 not granted by the agency; (B) the service of a complaint against an
298 agency returnable to a court which seeks to enforce or implement legal
299 relief or a legal right; or (C) the agency's consideration of action to
300 enforce or implement legal relief or a legal right.

301 (10) "Freedom of Information Act" means this chapter.

302 (11) "Governmental function" means the administration or
303 management of a program of a public agency, which program has been
304 authorized by law to be administered or managed by a person, where
305 (A) the person receives funding from the public agency for
306 administering or managing the program, (B) the public agency is
307 involved in or regulates to a significant extent such person's
308 administration or management of the program, whether or not such
309 involvement or regulation is direct, pervasive, continuous or day-to-
310 day, and (C) the person participates in the formulation of governmental
311 policies or decisions in connection with the administration or
312 management of the program and such policies or decisions bind the

313 public agency. "Governmental function" shall not include the mere
314 provision of goods or services to a public agency without the delegated
315 responsibility to administer or manage a program of a public agency.

316 Sec. 6. Subdivision (1) of subsection (b) of section 1-206 of the general
317 statutes is repealed and the following is substituted in lieu thereof
318 (*Effective from passage*):

319 (b) (1) (A) Any person denied the right to inspect or copy records
320 under section 1-210 or wrongfully denied the right to attend any
321 meeting of a public agency or denied any other right conferred by the
322 Freedom of Information Act may appeal therefrom to the Freedom of
323 Information Commission, by filing a notice of appeal with said
324 commission. [A] Except as provided in subparagraph (B) of this
325 subdivision, a notice of appeal shall be filed not later than thirty days
326 after such denial, except in the case of an unnoticed or secret meeting,
327 in which case the appeal shall be filed not later than thirty days after the
328 person filing the appeal receives actual or constructive notice that such
329 meeting was held. For purposes of this subsection, such notice of appeal
330 shall be deemed to be filed on the date it is received by said commission
331 or on the date it is postmarked, if received more than thirty days after
332 the date of the denial from which such appeal is taken. Upon receipt of
333 such notice, the commission shall serve upon all parties, by certified or
334 registered mail, a copy of such notice together with any other notice or
335 order of such commission. In the case of the denial of a request to inspect
336 or copy records contained in a public employee's personnel or medical
337 file or similar file under subsection (c) of section 1-214, the commission
338 shall include with its notice or order an order requiring the public
339 agency to notify any employee whose records are the subject of an
340 appeal, and the employee's collective bargaining representative, if any,
341 of the commission's proceedings and, if any such employee or collective
342 bargaining representative has filed an objection under said subsection
343 (c), the agency shall provide the required notice to such employee and
344 collective bargaining representative by certified mail, return receipt
345 requested or by hand delivery with a signed receipt. A public employee
346 whose personnel or medical file or similar file is the subject of an appeal

347 under this subsection may intervene as a party in the proceedings on the
348 matter before the commission. [Said] Except as provided in
349 subparagraph (B) of this subdivision, said commission shall, after due
350 notice to the parties, hear and decide the appeal within one year after
351 the filing of the notice of appeal. The commission shall adopt regulations
352 in accordance with chapter 54, establishing criteria for those appeals
353 which shall be privileged in their assignment for hearing. Any such
354 appeal shall be heard not later than thirty days after receipt of a notice
355 of appeal and decided not later than sixty days after the hearing. If a
356 notice of appeal concerns an announced agency decision to meet in
357 executive session or an ongoing agency practice of meeting in executive
358 sessions, for a stated purpose, the commission or a member or members
359 of the commission designated by its chairperson shall serve notice upon
360 the parties in accordance with this section and hold a preliminary
361 hearing on the appeal not later than seventy-two hours after receipt of
362 the notice, provided such notice shall be given to the parties at least
363 forty-eight hours prior to such hearing. During such preliminary
364 hearing, the commission shall take evidence and receive testimony from
365 the parties. If after the preliminary hearing the commission finds
366 probable cause to believe that the agency decision or practice is in
367 violation of sections 1-200 and 1-225, as amended by this act, the agency
368 shall not meet in executive session for such purpose until the
369 commission decides the appeal. If probable cause is found by the
370 commission, it shall conduct a final hearing on the appeal and render its
371 decision not later than five days after the completion of the preliminary
372 hearing. Such decision shall specify the commission's findings of fact
373 and conclusions of law.

374 (B) (i) Any appeal filed on or after the effective date of this section
375 until December 31, 2021, shall not be subject to the deadlines for filing
376 an appeal as set forth in subparagraph (A) of this subdivision, and (ii)
377 any appeal pending on or filed on or after the effective date of this
378 section until December 31, 2021, shall not be subject to the requirement
379 that the commission decide such appeal within one year as set forth in
380 subparagraph (A) of this subdivision.

381 Sec. 7. (NEW) (*Effective from passage*) As used in this section, "COVID-
382 19" means the respiratory disease designated by the World Health
383 Organization on February 11, 2020, as coronavirus 2019, and any related
384 mutation thereof recognized by said organization as a communicable
385 respiratory disease. Notwithstanding any provision of the general
386 statutes, between the effective date of this section and December 31,
387 2021, inclusive, any department head, as defined in section 4-5 of the
388 general statutes, may issue any directive, rule, guidance or order
389 modifying or suspending any regulatory requirements adopted by the
390 department head that the department head deems necessary to reduce
391 the spread of COVID-19 and to protect the public health.

392 Sec. 8. (NEW) (*Effective from passage*) As used in this section, "COVID-
393 19" means the respiratory disease designated by the World Health
394 Organization on February 11, 2020, as coronavirus 2019, and any related
395 mutation thereof recognized by said organization as a communicable
396 respiratory disease. Notwithstanding any provision of title 7 or 9 of the
397 general statutes, section 10-46 of the general statutes, any special act,
398 municipal charter, ordinance, bylaw or resolution, or any plan of
399 reapportionment approved pursuant to section 10-63l of the general
400 statutes, in any municipality where (1) the town meeting, annual town
401 meeting, district meeting or other meeting of electors or voters is the
402 authority for appointing or electing members or officials to any
403 municipal or regional governmental office, board, agency, commission
404 or quasi-municipal corporation, and (2) such appointments require a
405 district or town meeting or election to be held that is scheduled to occur
406 after June 30, 2021, but before December 31, 2021, for the purposes of
407 electing, nominating or appointing such members or officials, the
408 officials responsible for administering any such district or town meeting
409 or election shall use their best efforts to conduct such proceedings using
410 remote means in accordance with the provisions of section 1 of this act,
411 while also implementing measures to safeguard the integrity of the
412 process. If such officials determine that any such district or town
413 meeting or election cannot be conducted safely and accurately by
414 remote means, such officials shall take all reasonable measures to
415 protect the public health, including consulting with local or state public

416 health officials and conducting such meeting or election in a way that
417 significantly reduces the risk of transmission of COVID-19.

418 Sec. 9. (NEW) (*Effective from passage*) (a) As used in this section,
419 "notary public" means a person appointed by the Secretary of the State
420 pursuant to section 3-94b of the general statutes or a commissioner of
421 the Superior Court as described in section 51-85 of the general statutes.
422 Notwithstanding any provision of the general statutes, between the
423 effective date of this section and December 31, 2021, inclusive, any
424 notarial act that is required under Connecticut law to be performed by
425 a notary public may be performed using an electronic device or process
426 that allows a notary public and a remotely located individual to
427 communicate with each other simultaneously by sight and sound,
428 provided the following conditions are met:

429 (1) The individual seeking the notarial act from a notary public, if not
430 personally known to the notary public, shall present satisfactory
431 evidence of identity, as defined in section 3-94a of the general statutes,
432 while connected to the electronic device or process, and may not
433 transmit such evidence prior to or after the transaction;

434 (2) The electronic device or process used by the notary public shall be
435 capable of recording the complete notarial act and such recording shall
436 be made and retained by the notary public for not less than ten years;

437 (3) The individual seeking the notarial act shall affirmatively
438 represent using the electronic device or process that he or she is
439 physically situated in this state;

440 (4) The individual seeking the notarial act shall transmit by fax or
441 electronic means a legible copy of the signed document directly to the
442 notary public on the same date it was executed;

443 (5) The notary public may notarize the transmitted copy of the
444 document and transmit such copy to the individual seeking the notarial
445 act by fax or electronic means; and

446 (6) The notary public may repeat the notarization of the original

447 signed document as of the date of execution, provided the notary public
448 receives such original signed document, together with the electronically
449 notarized copy, within thirty days after the date of execution.

450 (b) Notwithstanding the provisions of subdivisions (1) to (6),
451 inclusive, of subsection (a) of this section, only an attorney admitted to
452 practice law in this state and in good standing may remotely administer
453 a self-proving affidavit to a will pursuant to section 45a-285 of the
454 general statutes or conduct a real estate closing as required under
455 section 51-88a of the general statutes. Any witnessing requirement for a
456 will may be satisfied remotely through the use of an electronic device or
457 process if it is completed under the supervision of a commissioner of the
458 Superior Court. The supervising commissioner shall certify that he or
459 she supervised the remote witnessing of the will.

460 (c) Notwithstanding any provision of the general statutes, no witness
461 shall be required for any document requiring a notarial act, other than a
462 will, as set forth in subsection (b) of this section.

463 (d) All remotely notarized documents pertaining to real property
464 shall be accepted for recording on the land records by all town clerks. A
465 one-page certification confirming the use of remote notarization
466 procedures shall be attached to each remotely notarized document
467 submitted for recording on the land records in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	1-225
Sec. 3	<i>from passage</i>	1-226
Sec. 4	<i>from passage</i>	1-228
Sec. 5	<i>from passage</i>	1-200
Sec. 6	<i>from passage</i>	1-206(b)(1)
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section

Statement of Legislative Commissioners:

Section 6(b)(1)(B) was rewritten for clarity, in Section 9(a) "commissioned" was changed to "appointed" for consistency, and in Section 9(a)(3), (4) and (5), "signatory act" was changed to "notarial act" for consistency.

GAE *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill, which codifies parts of five different executive orders issued by the governor during the COVID-19 pandemic, has no fiscal impact on the state or municipalities.

The bill allows public agencies to hold meetings remotely through conference call, videoconference, or other technology. It specifies that public agency meetings held remotely satisfy the Freedom of Information Act's (FOIA's) requirement that these meetings be open to the public.

The bill also exempts appeals filed or pending with the Freedom of Information Commission on or after the bill's effective date from certain FOIA deadlines until December 31, 2021. It also allows executive branch agency heads to modify or suspend their agency's regulatory requirements.

Lastly, the bill requires officials administering certain district or town meetings or elections to use their best efforts to conduct them remotely and allows notaries public and Superior Court commissioners to perform notarial acts electronically until December 31, 2021.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 1074*****AN ACT CONCERNING VARIOUS PROVISIONS RELATED TO GOVERNMENT ADMINISTRATION AND COVID-19.*****SUMMARY**

This bill codifies parts of five different executive orders issued by the governor during the COVID-19 pandemic related to government administration.

The bill allows public agencies to hold meetings remotely through conference call, videoconference, or other technology. It specifies that public agency meetings held remotely in compliance with its requirements satisfy the Freedom of Information Act's (FOIA's) requirement that these meetings be open to the public. It makes numerous conforming changes, including allowing public agencies to go into executive session during a remote meeting for the same reasons that they may do so for an in-person meeting (e.g., to discuss pending litigation).

Additionally, the bill exempts appeals filed or pending with the Freedom of Information Commission (FOIC) between the bill's effective date and December 31, 2021, from certain FOIA deadlines. It also allows executive branch agency heads, within these same dates, to modify or suspend any of their agency's regulatory requirements as they deem necessary to protect the public health and reduce COVID-19's spread (§ 7). (The latter provision codifies Executive Order 7QQ (§ 6), which the governor issued on May 20, 2020, effective for the duration of the declared public health and civil preparedness emergencies.)

The bill requires officials administering certain district or town meetings or elections to use their best efforts to conduct them remotely. Generally, this applies to meetings or elections scheduled to occur from

July 1, 2021, through December 30, 2021, to appoint officials to local or regional offices and boards.

The bill also allows notaries public and Superior Court commissioners (collectively, “notaries”) to perform notarial acts electronically until December 31, 2021. It requires notaries who do so to (1) use an electronic device or process that allows a notary and a remotely located individual to communicate with each other simultaneously by sight and sound and (2) comply with specified requirements.

Lastly, the bill makes technical changes.

EFFECTIVE DATE: Upon passage

§§ 1-5 — REMOTELY HELD MEETINGS

Under current law, FOIA’s definition of “meeting” includes those held by electronic equipment, but it does not explicitly authorize, or establish procedures for, telephone or other remotely held meetings (see BACKGROUND).

The bill explicitly allows remotely held meetings under FOIA, subject to specified conditions. (In doing so, it codifies Executive Order 7B (§ 1), which the governor issued on March 14, 2020, effective for the duration of the declared public health and civil preparedness emergencies.)

The conditions are as follows:

1. The public must be able to view or listen to the meeting (other than executive sessions) in real-time through telephone, video, or other technology.
2. With the exception of an executive session, the meeting must be recorded or transcribed, with the recording or transcript posted on the agency’s website within seven days after the meeting and made available in the agency’s office within a reasonable period of time. (The bill does not specify a deadline for making the recording or transcript available in the office.)

3. The meeting notice and agenda must be posted on the agency's website and include information about how the public can access the meeting and what technology it will use.
4. Materials relevant to the agenda must be (a) submitted to the agency at least 24 hours before the meeting and (b) posted on the agency's website for inspection before, during, and after the meeting.
5. Exhibits submitted by the public must, to the extent feasible, be (a) submitted to the agency at least 24 hours before the meeting and (b) posted on the agency's website for inspection before, during, and after the meeting.
6. Meeting participants must state their name and title (if applicable) each time before speaking.

The bill requires that agendas for remotely held meetings comply with FOIA's existing deadlines for making meeting agendas (e.g., posted at least 24 hours in advance of a regular meeting). Current law requires public agencies, other than those of political subdivisions (e.g., municipalities), to post meeting minutes on their website within seven days after the meeting. The bill subjects public agencies of political subdivisions to the online posting requirement for any remotely held meetings.

Notices of a Special Meeting

The bill allows notices of a special meeting to be electronically sent to a public agency's members rather than delivered to their homes as current law requires. Current law also allows members to waive delivery of the notice by filing a written waiver with the agency's clerk or secretary. The bill allows members to submit these waivers electronically. (A special meeting is one that is held to consider business that (1) was unforeseen when scheduling regular meetings and (2) should be addressed before the next regular meeting.)

Notices of Adjournment

The bill also allows public agencies, when a remote meeting is adjourned because all members are absent, to post a notice of adjournment in a conspicuous place on their websites. Current law requires that this notice be posted on or near the door of the meeting's location.

§ 6 — FOIC DEADLINES

By law, a person alleging a FOIA violation generally must appeal to FOIC within 30 days after being denied a right conferred by FOIA (e.g., inspecting or copying public records or attending a public agency's meeting). FOIC must hear and decide the appeal within one year after its filing date.

The bill establishes deadline exemptions for appeals filed or pending on or after its effective date until December 31, 2021. Specifically, it exempts (1) appeals filed within this timeframe from both the filing deadline and FOIC's adjudication deadline and (2) appeals pending within this timeframe from FOIC's adjudication deadline.

(This section codifies Executive Order 7M (§ 2), which the governor issued on March 25, 2020, effective for the duration of the declared public health and civil preparedness emergencies.)

§ 8 — MEETINGS TO APPOINT LOCAL OR REGIONAL OFFICIALS

The bill requires officials administering certain district or town meetings or elections to use their best efforts to conduct the meeting or election remotely and implement measures to safeguard the integrity of the process. It applies to municipalities where (1) a town meeting, annual town meeting, district meeting, or election is the authority for appointing or electing members or officials to any municipal or regional governmental office, board, agency, commission, or quasi-municipal corporation and (2) the appointments require that a district or town meeting or election be held that is scheduled to occur from July 1, 2021, through December 30, 2021.

Under the bill, if the officials determine that the meeting or election

cannot be conducted safely and accurately by remote means, then they must take all reasonable measures to protect public health (e.g., conduct the meeting or election in a way that significantly reduces the COVID-19 transmission risk).

(This section codifies Executive Order 700 (§ 1), which the governor issued on May 14, 2020, effective for the duration of the declared public health and civil preparedness emergencies.)

§ 9 — REMOTE NOTARIZATION

Current law does not permit remote notarization in Connecticut. For example, it defines “acknowledgement” as “a notarial act in which a notary public certifies that a signatory...has admitted, in the notary’s presence, to having signed a document for its stated purpose” (CGS § 3-94a(1)).

The bill instead allows remote notarizations until December 31, 2021, subject to the following requirements:

1. A signatory who is not personally known to the notary must present satisfactory evidence of identification while communicating with the notary and may not transmit it before or after the transaction (evidence of identification includes two specified forms of ID or an affirmation by a person known to both the notary and signatory).
2. The electronic device or process must be capable of recording the complete notarial act.
3. The notary must retain a recording of the complete notarial act for at least 10 years.
4. The signatory must affirmatively represent that he or she is physically present in Connecticut during the transaction.
5. The signatory must transmit to the notary, by fax or electronic means, a copy of the signed document on the same date it was executed.

6. The notary may notarize the transmitted copy and send it back to the signatory by fax or electronic means.
7. The notary may repeat the notarization of the original signed document as of its execution date as long as the notary receives the original signed document, together with the electronically notarized copy, within 30 days after the execution date.

Under the bill, only an attorney in good standing and admitted to practice law in Connecticut may remotely administer a self-proving affidavit to a last will or conduct a real estate closing. The bill suspends all witness requirements for notarizations, except for those concerning a last will. It allows witnessing requirements for a last will to be satisfied remotely, using the communication technology described above, if a Superior Court commissioner (generally, an attorney admitted to the Connecticut bar and in good standing) supervises its completion and certifies his or her supervision.

The bill requires town clerks to accept remotely notarized documents for recording on their town's land records. Remotely notarized documents submitted to the clerks for this purpose must be accompanied by a one-page certification confirming the use of remote notarization.

(This section codifies Executive Order 7Q (§ 3), which the governor issued on March 30, 2020, and subsequently extended for the duration of the declared public health and civil preparedness emergencies.)

BACKGROUND

Related Bills

sHB 6651, reported favorably by the Government Administration and Elections (GAE) Committee, is identical to this bill.

sSB 183 (File 441), reported favorably by the GAE Committee, authorizes remote meetings under nearly identical conditions as those in the bill.

sHB 6604 (File 311), reported favorably by the Commerce Committee, allows remote notarization under similar conditions until June 30, 2022.

sHB 6448, reported favorably by the Planning and Development Committee, authorizes remote meetings under similar conditions as those in the bill while also requiring public agencies to make their meetings (including in-person meetings) accessible to the public through electronic equipment.

HB 6641, reported favorably by the Planning and Development Committee, authorizes remote meetings under similar conditions as those in the bill.

Telephone Meetings Under FOIA

Although FOIA currently does not explicitly authorize telephone or other remotely held meetings, its definition of “meeting” includes those held by electronic equipment (CGS § 1-200(2)).

In its only advisory opinion on the subject, FOIC advised that public agencies conducting business over the phone must comply with FOIA’s open meeting requirements. According to FOIC, agencies must make sure that the public has “access to the entire proceedings taking place during the course of a meeting.”

Specifically, the commission advised that the meeting must comply with at least the following:

1. members of the public who want to attend the meeting must be accommodated at a place where the greatest number of participating agency members are located;
2. people attending the meeting, including members of the public, must be able to see and inspect copies of any physical or demonstrable materials presented or used; and
3. all those attending the meeting, at whatever location, must be able to hear and identify adequately all participants in the proceedings, including individual remarks and votes (Advisory

Opinion 41, 1980).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 17 Nay 2 (03/31/2021)