

My name is Jenny Brekhus. I am a Reno City Council member and write in opposition to this bill. The reason for my opposition is that the bill does not address a flaw in the Open Meeting Law resulting from changes made in the prior session (AB 253). The flaw pertains to the use of remote technology in governing body meetings. The application of those changes has a contrary effect to that testified by the Attorney General and undermines the openness and accessibility of local government proceedings. Only after the 2021 defect is resolved, should focus turn to additional tweaks like those proposed in this bill that also pertain to use of remote technology.

Background

The 2021 bill integrated the use of remote technology and participation into local government meetings. As a result of the COVID-19 pandemic emergency that moved many proceedings to virtuality, there was a desire to find a balance to allow some remote participation while maintaining meetings open and live in physical locations. The below excerpt from the May 7, 2021, hearing of the Senate Government Affairs Committee between Senator Hanson and an Attorney General representative captures the balance being sought to allow both physical and remote meetings:

SENATOR HANSON: I have an issue with the bill with the idea of Zoom meetings. I have noticed that it is convenient for elected officials to skip out on meetings. I get worried. When I have issues with public bodies, it is nice to know that all the members are supposed to be in one location during a meeting, and I can talk to them face to face. The Zoom concept makes me uncomfortable. Is there a sunset in this bill?

This could be a convenience for people who do not always like to face the public. This might be a way for them to avoid showing up when there is a crowd full of hostile people. It might be handy at times to sit behind a computer and do it from a Zoom location. Is it correct that this bill would allow that?

Lacunae

Ms. BORDELOVE: The law does not require members of the public body to attend in person. Members of the public body are permitted to attend virtually or in person. All that is required under the law is that there be a physical location where members of the public can attend and participate to the same level as members of the public body. If members of the public body are attending via telephone, there has to be a meeting location where there is a phone on speaker, conferenced in, so the public can make comment and listen at the same level as other members. This bill would not change that. When a virtual meeting is being held instead of a physical meeting, they are allowed to provide that electronic format to the public. The law does not require physical attendance by members of the public body.

With awareness of the 2021 Open Meeting Law changes, you can imagine my surprise on July 22, 2022, when I was told to leave a Reno City Council meeting and go home to my office bedroom to participate in the meeting that was being held on Zoom. This was an important regional meeting held jointly with the Washoe County Board of Commissioners and the Sparks Reno City Council. While in transit, I also missed a key vote on public safety issues that were of focus.

The Open Meeting Law Complaint I filed that day was accepted and remains under investigation by the Attorney General (file number 13897-454). Over 200 days have passed since I filed, and the Attorney General has not answered the central question of the Complaint: Can a duly elected local government official be required to participate in a meeting using a remote technology system in conflict with her preference to participate in person at the meeting's physical location?

Suggestion

Because of the Attorney General's delay in responding to the Complaint, one must cautiously opine that what occurred on July 22 was not an Open Meeting Law Violation. So yes, local officials can be chased away from their own meetings and made to appear on tiny screens.

If members of the committee share a concern as expressed by Senator Hanson and by myself who sought public office to engage with the public and not to be a remote worker, I encourage alternative amendments to the Open Meeting Law than those proposed in the bill.

I suggest an explicit section clarifying that a member of governing body shall not in any manner be denied the opportunity to participate in-person at a meeting. The bill should be explicit that neither an administrative officer such as a city manager, or even a majority vote of the body should deprive an elected official their individual choice of participating in person.

Thank you for your consideration of my input.

Best,
Jenny Brekhus