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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - OPEN MEETINGS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: March 04, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-46-1, 42-46-2, 42-46-4, 42-46-5, 42-46-6, 42-46-7, 42-46-8, 42-
2 46-11 and 42-46-13 of the General Laws in Chapter 42-46 entitled "Open Meetings" are hereby
3 amended to read as follows:

4 **42-46-1. Public policy.**

5 It is essential to the maintenance of a democratic society that public business be performed
6 in an open and public manner and that the citizens be advised of and aware of the performance of
7 public officials and the deliberations and decisions that go into the making of public policy.
8 Advances in technology should be used to allow and enable the public increased opportunities to
9 observe the performance and deliberations of their public officials as well as provide greater access
10 to material used in the course of the making of public policy.

11 **42-46-2. Definitions.**

12 As used in this chapter:

13 (1) "Ceremonial speech or comment" means any comment or speech made by a member
14 of a public body meant to express thanks, condolences, or other expressions of good will,
15 fellowship, or fraternity.

16 (2) "Joint meeting" means the convening of two (2) or more public bodies to discuss or act
17 upon a matter over which the public bodies have supervision, control, jurisdiction, or advisory
18 power. As used herein, the term "meeting" expressly includes, without limiting the generality of
19 the foregoing, so-called "workshop," "working," "work sessions", "or retreats."

1 ~~(4)~~(3) "Meeting" means the convening of a public body to discuss and/or act upon a matter
2 over which the public body has supervision, control, jurisdiction, or advisory power. As used
3 herein, the term "meeting" expressly includes, without limiting the generality of the foregoing, so-
4 called "workshop," "working," ~~or~~ "work" sessions "or retreats".

5 ~~(2)~~(4) "Open call" means a public announcement by the chairperson of the committee that
6 the meeting is going to be held in ~~executive~~ closed session and the chairperson must indicate which
7 exception of § 42-46-5 is being involved.

8 ~~(3)~~(5) "Open forum" means the designated portion of an open meeting, if any, on a properly
9 posted notice reserved for citizens to address comments to a public body relating to matters
10 affecting the public business.

11 ~~(4) "Prevailing plaintiff" includes those persons and entities deemed "prevailing parties"~~
12 ~~pursuant to 42 U.S.C. § 1988.~~

13 ~~(5)~~(6) "Public body" means any department, agency, commission, committee, board,
14 council, bureau, or authority, or any subdivision thereof, of state or municipal government or the
15 board of directors of any library that funded at least twenty-five percent (25%) of its operational
16 budget in the prior budget year with public funds, and shall include all authorities defined in § 42-
17 35-1. As used herein, the term "public body" expressly includes, without limiting the generality of
18 the foregoing, so-called "advisory panels," "review panels," "review committees," or "task forces."
19 For purposes of this section, any political party, organization, or unit thereof meeting or convening
20 is not and should not be considered to be a public body; provided, however, that no such meeting
21 shall be used to circumvent the requirements of this chapter.

22 ~~(6)~~(7) "Quorum," unless otherwise defined by applicable law, means a simple majority of
23 the membership of a public body. For purposes of this section, ex officio nonvoting members, and
24 members of a public body who have recused themselves pursuant to §§ 36-14-5 and 36-14-6 shall
25 not be included in calculating whether a public body meets a quorum.

26 (8) "Recordation" means the recording of the sound or video of an open meeting by use of
27 any electronic device designed to capture audio, photographs, or video of the public body.

28 (9) "Rolling quorum" means any series of gatherings of members of a public body at which:

29 (i) Less than a quorum is present, whether in person or by means of electronic
30 communication, at any individual gathering;

31 (ii) The members of the public body attending one or more of the gatherings collectively
32 constitute a quorum; and

33 (iii) The series of gatherings was held to discuss or act upon a matter over which the public
34 body has supervision, control, jurisdiction, or advisory power.

1 **42-46-4. Closed meetings.**

2 (a) By open call, a public body may hold a meeting closed to the public upon an affirmative
3 vote of the majority of its members. A meeting closed to the public shall be limited to matters
4 allowed to be exempted from discussion at open meetings by § 42-46-5. The vote of each member
5 on the question of holding a meeting closed to the public and the reason for holding a closed
6 meeting, by a citation to a subdivision of § 42-46-5(a), and a statement specifying the nature of the
7 business to be discussed, shall be recorded and entered into the minutes of the meeting.

8 (b) No public body shall discuss in closed session any public matter which does not fall
9 within the citations to § 42-46-5(a) referred to by the public body in voting to close the meeting,
10 even if these discussions could otherwise be closed to the public under this chapter.

11 ~~(b)~~(c) All votes taken in closed sessions shall be disclosed once the session is reopened;
12 provided, however, ~~a~~ the specific vote taken in a closed session need not be disclosed for the period
13 of time during which its disclosure would jeopardize any strategy, negotiation or investigation
14 undertaken pursuant to discussions conducted under § 42-46-5(a); and provided, further, however,
15 the public body must disclose that a vote did occur. The subject and results from a vote not disclosed
16 at a meeting shall be disclosed at the next regularly scheduled meeting of the public body unless
17 the public body takes a vote in a properly noticed closed session pursuant to § 42-46-5 affirming
18 that disclosure of the vote would continue to jeopardize a strategy, negotiation or investigation
19 exempt from disclosure under § 42-46-5(a) and announces in public that such a vote was taken.

20 ~~**42-46-5. Purposes for which meeting may be closed -- Use of electronic**~~
21 ~~**communications -- Judicial proceedings -- Disruptive conduct. Purposes for which meeting**~~
22 ~~**may be closed.**~~

23 ~~(a)~~ A public body may hold a meeting closed to the public pursuant to § 42-46-4 for one
24 or more of the following purposes:

25 (1) Any discussions of the job performance, character, or physical or mental health of a
26 person or persons provided that such person or persons affected shall have been notified in advance
27 in writing and advised that they may require that the discussion be held at an open meeting.

28 Failure to provide such notification shall render any action taken against the person or
29 persons affected null and void. Before going into a closed meeting pursuant to this subsection, the
30 public body shall state for the record that ~~any~~ the affected persons to be discussed have been so
31 notified and this statement shall be noted in the minutes of the meeting.

32 (2) Meetings or work Sessions pertaining to collective bargaining ~~or litigation, or work~~
33 ~~sessions pertaining to collective bargaining or litigation;~~ provided, however, a public body may not
34 enter closed session for purposes of discussion with a representative for a group of employees.

1 (3) Meetings to discuss actual or imminent litigation. For purposes of this section, a public
2 body may only enter closed session for matters of actual or threatened in writing, litigation
3 concerning the public body or persons employed by the public body. Mere presence of the public
4 body's legal counsel does not satisfy the requirements for a closed session. In citing to this
5 subsection, the public body shall list the case caption, the case number, and court or administration
6 agency where the matter is being litigated if litigation has been filed in court or an administrative
7 agency.

8 ~~(3)~~(4) Discussion regarding the matter of security including, but not limited to, the
9 deployment of security personnel or devices.

10 ~~(4)~~(5) Any investigative proceedings regarding allegations of misconduct, either civil or
11 criminal.

12 ~~(5)~~(6) Any discussions or considerations related to the acquisition or lease of real property
13 for public purposes, or of the disposition of publicly held property wherein advanced public
14 information would be detrimental to the interest of the public.

15 ~~(6)~~(7) Any discussions related to or concerning a prospective business or industry locating
16 in the state of Rhode Island when an open meeting would have a detrimental effect on the interest
17 of the public.

18 ~~(7)~~(8) A matter related to the question of the investment of public funds where the
19 premature disclosure would adversely affect the public interest. Public funds shall include any
20 investment plan or matter related thereto, including, but not limited to, state lottery plans for new
21 promotions.

22 ~~(8)~~(9) Any executive sessions of a local school committee exclusively for the purposes: (i)
23 of conducting student disciplinary hearings; or (ii) of reviewing other matters which relate to the
24 privacy of students and their records, including all hearings of the various juvenile hearing boards
25 of any municipality; provided, however, that any affected student shall have been notified in
26 advance in writing and advised that he or she may require that the discussion be held in an open
27 meeting.

28 Failure to provide such notification shall render any action taken against the student or
29 students affected null and void. Before going into a closed meeting pursuant to this subsection, the
30 public body shall state for the record that any students to be discussed have been so notified and
31 this statement shall be noted in the minutes of the meeting.

32 ~~(9)~~(10) Any hearings on, or discussions of, a grievance filed pursuant to a collective
33 bargaining agreement.

34 ~~(10)~~(11) Any discussion of the personal finances of a prospective donor to a library.

1 ~~(b) No meeting of members of a public body or use of electronic communication, including~~
2 ~~telephonic communication and telephone conferencing, shall be used to circumvent the spirit or~~
3 ~~requirements of this chapter; provided, however, these meetings and discussions are not prohibited.~~

4 ~~(1) Provided, further however, that discussions of a public body via electronic~~
5 ~~communication, including telephonic communication and telephone conferencing, shall be~~
6 ~~permitted only to schedule a meeting.~~

7 ~~(2) Provided, further however, that a member of a public body may participate by use of~~
8 ~~electronic communication or telephone communication while on active duty in the armed services~~
9 ~~of the United States.~~

10 ~~(3) Provided, further however, that a member of that public body, who has a disability as~~
11 ~~defined in chapter 87 of title 42 and:~~

12 ~~(i) Cannot attend meetings of that public body solely by reason of his or her disability; and~~

13 ~~(ii) Cannot otherwise participate in the meeting without the use of electronic~~
14 ~~communication or telephone communication as reasonable accommodation, may participate by use~~
15 ~~of electronic communication or telephone communication in accordance with the process below.~~

16 ~~(4) The governor's commission on disabilities is authorized and directed to:~~

17 ~~(i) Establish rules and regulations for determining whether a member of a public body is~~
18 ~~not otherwise able to participate in meetings of that public body without the use of electronic~~
19 ~~communication or telephone communication as a reasonable accommodation due to that member's~~
20 ~~disability;~~

21 ~~(ii) Grant a waiver that allows a member to participate by electronic communication or~~
22 ~~telephone communication only if the member's disability would prevent him/her from being~~
23 ~~physically present at the meeting location, and the use of such communication is the only~~
24 ~~reasonable accommodation; and~~

25 ~~(iii) Any waiver decisions shall be a matter of public record.~~

26 ~~(e) This chapter shall not apply to proceedings of the judicial branch of state government~~
27 ~~or probate court or municipal court proceedings in any city or town.~~

28 ~~(d) This chapter shall not prohibit the removal of any person who willfully disrupts a~~
29 ~~meeting to the extent that orderly conduct of the meeting is seriously compromised.~~

30 **42-46-6. Notice.**

31 (a) All public bodies shall give written notice of their regularly scheduled meetings at the
32 beginning of each calendar year. The notice shall include the dates, times, and places of the
33 meetings and shall be provided to members of the public upon request and to the secretary of state
34 at the beginning of each calendar year in accordance with subsection (f). [If the dates, times, or](#)

1 places of the regularly scheduled meetings are changed during the calendar year, the public body
2 shall update the written notice and refile them with the secretary of state in accordance with
3 subsection (f) of this section.

4 (b) Public bodies shall give supplemental written public notice of any meeting within a
5 minimum of forty-eight (48) hours, excluding weekends and state holidays in the count of hours,
6 before the date of the hearing. This supplemental notice shall include the date the notice was posted;
7 the date, time, and place of the meeting; and a statement specifying the nature of the business to be
8 discussed. Copies of the supplemental notice shall be maintained by the public body for a minimum
9 of one year in a format that allows for their physical retrieval. ~~Nothing contained herein shall~~
10 ~~prevent a public body, other than a school committee, from adding additional items to the agenda~~
11 ~~by majority vote of the members. School committees may, however, add items for informational~~
12 ~~purposes only, pursuant to a request, submitted in writing, by a member of the public during the~~
13 ~~public comment session of the school committee's meetings. Said informational items may not be~~
14 ~~voted upon unless they have been posted in accordance with the provisions of this section. Such~~
15 ~~additional items shall be for informational purposes only and may not be voted on except where~~
16 ~~necessary to address an unexpected occurrence that requires immediate action to protect the public~~
17 ~~or to refer the matter to an appropriate committee or to another body or official.~~ Nothing contained
18 herein shall prevent a public body from adding additional items to the agenda by majority vote of
19 the members; provided, however, such items shall not be used to circumvent the notice requirement
20 of this subsection. Such additional items shall be for informational purposes only and may not be
21 voted on except when necessary to address an unexpected occurrence that requires immediate
22 action to protect the public or to refer the matter to an appropriate committee or to another body or
23 official.

24 (c) Written public notice shall include, but need not be limited to, posting a copy of the
25 supplemental notice at the principal office of the public body holding the meeting, or if no principal
26 office exists, at the building in which the meeting is to be held, and in at least one other prominent
27 place within the governmental unit, and electronic filing of the supplemental notice with the
28 secretary of state pursuant to subsection (f) of this section, and making a copy available on the
29 public body's website if a website is maintained.; ~~however, nothing contained herein shall prevent~~
30 ~~a public body from holding an emergency meeting, upon an affirmative vote of the majority of the~~
31 ~~members of the body when the meeting is deemed necessary to address an unexpected occurrence~~
32 ~~that requires immediate action to protect the public. If an emergency meeting is called, a meeting~~
33 ~~notice and agenda shall be posted as soon as practicable and shall be electronically filed with the~~
34 ~~secretary of state pursuant to subsection (f) and, upon meeting, the public body shall state for the~~

1 ~~record and minutes why the matter must be addressed in less than forty eight (48) hours in~~
2 ~~accordance with subsection (b) of this section and only discuss the issue or issues that created the~~
3 ~~need for an emergency meeting. Nothing contained herein shall be used in the circumvention of the~~
4 ~~spirit and requirements of this chapter.~~

5 ~~(d) Nothing within this chapter shall prohibit any public body, or the members thereof,~~
6 ~~from responding to comments initiated by a member of the public during a properly noticed open~~
7 ~~forum even if the subject matter of a citizen's comments or discussions were not previously posted,~~
8 ~~provided such matters shall be for informational purposes only and may not be voted on except~~
9 ~~where necessary to address an unexpected occurrence that requires immediate action to protect the~~
10 ~~public or to refer the matter to an appropriate committee or to another body or official. Nothing~~
11 ~~contained in this chapter requires any public body to hold an open forum session to entertain or~~
12 ~~respond to any topic nor does it prohibit any public body from limiting comment on any topic at~~
13 ~~such an open forum session. No public body, or the members thereof, may use this section to~~
14 ~~circumvent the spirit or requirements of this chapter.~~

15 (d) Beginning January 1, 2022, all public bodies shall post their electronic filing with the
16 secretary of state containing all public documents to be discussed at the noticed meeting.

17 (e) A public body may be subject to a fine of not less than one hundred dollars (\$100) for
18 each document found to be in noncompliance with this section.

19 ~~(e) A school committee may add agenda items not appearing in the published notice~~
20 ~~required by this section under the following conditions:~~

21 ~~(1) The revised agenda is electronically filed with the secretary of state pursuant to~~
22 ~~subsection (f), and is posted on the school district's website and the two (2) public locations required~~
23 ~~by this section at least forty eight (48) hours in advance of the meeting in accordance with~~
24 ~~subsection (b) of this section;~~

25 ~~(2) The new agenda items were unexpected and could not have been added in time for~~
26 ~~newspaper publication;~~

27 ~~(3) Upon meeting, the public body states for the record and minutes why the agenda items~~
28 ~~could not have been added in time for newspaper publication and need to be addressed at the~~
29 ~~meeting;~~

30 ~~(4) A formal process is available to provide timely notice of the revised agenda to any~~
31 ~~person who has requested that notice, and the school district has taken reasonable steps to make the~~
32 ~~public aware of this process; and~~

33 ~~(5) The published notice shall include a statement that any changes in the agenda will be~~
34 ~~posted on the school district's website and the two (2) public locations required by this section and~~

1 ~~will be electronically filed with the secretary of state at least forty-eight (48) hours in advance of~~
2 ~~the meeting in accordance with subsection (b) of this section.~~

3 ~~(f) All notices required by this section to be filed with the secretary of state shall be~~
4 ~~electronically transmitted to the secretary of state in accordance with rules and regulations that shall~~
5 ~~be promulgated by the secretary of state. This requirement of the electronic transmission and filing~~
6 ~~of notices with the secretary of state shall take effect one year after this subsection takes effect.~~

7 ~~(g) If a public body fails to transmit notices in accordance with this section, then any~~
8 ~~aggrieved person may file a complaint with the attorney general in accordance with § 42-46-8.~~

9 **42-46-7. Minutes.**

10 (a) All public bodies shall keep written minutes of all their meetings. The minutes shall
11 include, but need not be limited to:

12 (1) The date, time, and place of the meeting;

13 (2) The members of the public body recorded as either present or absent;

14 (3) A record by individual members of any vote taken; ~~and~~

15 (4) A summary of the discussions on each subject, and a list of documents and exhibits
16 used at the meeting;

17 ~~(5)~~ (5) Any other information relevant to the business of the public body that any member
18 of the public body requests be included or reflected in the minutes; ~~and~~

19 (6) Note where recording is publicly available.

20 (b)(1) A record of all votes taken at all meetings of public bodies, listing how each member
21 voted on each issue, shall be a public record and shall be posted electronically online on a public
22 body's website, the secretary of state's website, and made available to the public at the office of
23 the public body within ~~two (2) weeks~~ seven (7) days of the date of the vote. The minutes shall be
24 public records and unofficial minutes shall be available to the public at the office of the public body
25 within ~~thirty-five (35)~~ twenty-one (21) days of the meeting ~~or at~~ but no later than five (5) days prior
26 to the next regularly scheduled meeting, whichever is earlier, except where the disclosure would
27 be inconsistent with §§ 42-46-4 and 42-46-5 or where the public body by majority vote extends the
28 time period for the filing of the minutes and publicly states the reason.

29 (2) In addition to the provisions of subsection (b)(1), all volunteer fire companies,
30 associations, fire district companies, or any other organization currently engaged in the mission of
31 extinguishing fires and preventing fire hazards, whether it is incorporated or not, and whether it is
32 a paid department or not, shall post unofficial minutes of their meetings within twenty-one (21)
33 days of the meeting, but not later than seven (7) days prior to the next regularly scheduled meeting,
34 whichever is earlier, on the secretary of state's website.

1 (c) The minutes of a closed session shall be made available at the next regularly scheduled
2 meeting unless the majority of the body votes to keep the minutes closed pursuant to §§ 42-46-4
3 and 42-46-5. At the end of each calendar year, a public body shall make all minutes closed during
4 the present calendar year available pursuant to this section unless the public body takes a vote in a
5 properly noticed closed session pursuant to § 42-46-5 and affirms in open session that the minutes
6 can remain subject to closure pursuant to § 42-64-4(c).

7 (d) All public bodies shall keep official and/or approved minutes of all meetings of the
8 body and shall file a copy of the minutes of all open meetings with the secretary of state for
9 inspection by the public within thirty-five (35) days of the meeting, or within five (5) days of the
10 next scheduled meeting, whichever is earlier, and made available on the public body's website if a
11 website exists; ~~provided that this subsection shall not apply to public bodies whose responsibilities~~
12 ~~are solely advisory in nature.~~

13 (e) All minutes and unofficial minutes required by this section to be filed with the secretary
14 of state shall be electronically transmitted to the secretary of state in accordance with rules and
15 regulations that shall be promulgated by the secretary of state. If a public body fails to transmit
16 minutes or unofficial minutes in accordance with this subsection, then any aggrieved person may
17 file a complaint with the attorney general in accordance with § 42-46-8.

18 (f) A public body may be subject to a fine of not less than one hundred dollars (\$100) for
19 each document found to be in noncompliance with this section.

20 **42-46-8. Remedies available to aggrieved persons or entities.**

21 (a) Any citizen or entity of the state who is aggrieved as a result of violations of the
22 provisions of this chapter may file a complaint with the attorney general. The attorney general shall
23 investigate the complaint and if the attorney general determines that the allegations of the complaint
24 are meritorious ~~he or she~~ the attorney general may file a complaint on behalf of the complainant in
25 the superior court against the public body. The presence or absence of a person or entity at a meeting
26 of a public body shall not disqualify the person or entity from seeking remedies available under
27 this chapter.

28 (b) No complaint may be filed by the attorney general after ~~one hundred eighty (180)~~ three
29 hundred sixty-five (365) days from the date of public approval of the minutes of the meeting at
30 which the alleged violation occurred, or, in the case of an unannounced or improperly closed
31 meeting, after ~~one hundred eighty (180)~~ three hundred sixty-five (365) days from the public action
32 of a public body revealing the alleged violation, whichever is greater.

33 (c) Nothing within this section shall prohibit any individual from retaining private counsel
34 for the purpose of filing a complaint in the superior court within the time specified by this section

1 against the public body which has allegedly violated the provisions of this chapter; provided,
2 however, that if the individual has first filed a complaint with the attorney general pursuant to this
3 section, and the attorney general declines to take legal action, the individual may file suit in superior
4 court within ninety (90) days of the attorney general's closing of the complaint or within one
5 hundred eighty (180) days of the alleged violation, whichever occurs later.

6 (d) The court shall award reasonable attorney fees and costs to a prevailing plaintiff, other
7 than the attorney general, except where special circumstances would render such an award unjust.
8 The court may issue injunctive relief and declare null and void any actions of a public body found
9 to be in violation of this chapter. In addition, the court may impose a civil fine not exceeding five
10 thousand dollars (\$5,000) against a public body or any of its members found to have committed a
11 willful or knowing violation of this chapter and a civil fine not to exceed one thousand dollars
12 (\$1,000) against a public body found to have recklessly violated this chapter. A judgment in the
13 plaintiff's favor shall not be a prerequisite to obtaining an award of attorneys' fees or costs if the
14 court determines that the defendant's case lacked grounding in fact or in existing law or a good faith
15 argument for extension, modification or reversal of existing law.

16 (e) Nothing within this section shall prohibit the attorney general from initiating a
17 complaint on behalf of the public interest.

18 (f) Actions brought under this chapter may be advanced on the calendar upon motion of
19 the petitioner.

20 (g) The attorney general shall consider all complaints filed under this chapter to have also
21 been filed under § 38-2-8(b) if applicable.

22 **42-46-11. Reported violations.**

23 Every year the attorney general shall prepare a report summarizing the complaints received
24 pursuant to this chapter, which shall be submitted to the legislature and which shall include
25 information as to how many complaints were found to be meritorious and the action taken by the
26 attorney general in response to those complaints. The attorney general shall publish the full text of
27 all complaints and the action taken by the attorney general in response to those complaints, as well
28 as all advisory opinions issued related to this chapter, on a keyword searchable website.

29 **42-46-13. Accessibility for persons with disabilities.**

30 (a) All public bodies, to comply with the nondiscrimination on the basis of disability
31 requirements of R.I. Const., Art. I, § 2 and applicable federal and state nondiscrimination laws (29
32 U.S.C. § 794, chapter 87 of this title, and chapter 24 of title 11), shall develop a transition plan
33 setting forth the steps necessary to ensure that all open meetings of said public bodies are accessible
34 to persons with disabilities.

1 (b) The state building code standards committee shall, by September 1, 1989 adopt an
2 accessibility of meetings for persons with disabilities standard that includes provisions ensuring
3 that the meeting location is accessible to and usable by all persons with disabilities.

4 (c) This section does not require the public body to make each of its existing facilities
5 accessible to and usable by persons with disabilities so long as all meetings required to be open to
6 the public pursuant to chapter 46 of this title are held in accessible facilities by the dates specified
7 in subsection (e).

8 (d) The public body may comply with the requirements of this section through such means
9 as reassignment of meetings to accessible facilities, alteration of existing facilities, or construction
10 of new facilities. The public body is not required to make structural changes in existing facilities
11 where other methods are effective in achieving compliance with this section.

12 (e) The public body shall comply with the obligations established under this section by July
13 1, 1990, except that where structural changes in facilities are necessary in order to comply with this
14 section, such changes shall be made by December 30, 1991, but in any event as expeditiously as
15 possible unless an extension is granted by the state building commissioner for good cause.

16 (f) Each municipal government and school district shall, with the assistance of the state
17 building commission, complete a transition plan covering the location of meetings for all public
18 bodies under their jurisdiction. Each chief executive of each city or town and the superintendent of
19 schools will submit their transition plan to the governor's commission on disabilities for review and
20 approval. The governor's commission on disabilities with assistance from the state building
21 commission shall approve or modify, with the concurrence of the municipal government or school
22 district, the transition plans.

23 (g) The supplemental written notice required by § 42-46-6(b) shall be given sufficiently in
24 advance of the meeting to allow a person to request in a timely manner the presence of an interpreter
25 or other reasonable accommodation for the meeting.

26 ~~(e)~~(h) The provisions of §§ 45-13-7 -- 45-13-10, inclusive, shall not apply to this section.

27 SECTION 2. Chapter 42-46 of the General Laws entitled "Open Meetings" is hereby
28 amended by adding thereto the following section:

29 **42-46-3.1. Accommodation and recordings of open meetings.**

30 (a) Every meeting of all public bodies shall be open to the public unless closed pursuant to
31 §§ 42-46-4 and 42-46-5.

32 (b) All reasonable efforts must be made to ensure that the meeting allows for all persons
33 present to hear and observe an open meeting.

34 (c) A public body shall not prohibit the recordation of all or part of any of its open meetings

1 as long as such recordation does not interfere with the obligation of the public body to maintain
2 order under § 42-46-5.

3 **42-46-3.2. Open electronic communications.**

4 (a) A communication or exchange of information between members of a public body about
5 public business or public policy over which the public body has supervision, jurisdiction, advisory
6 power, or control does not constitute a meeting for purposes of this chapter if:

7 (1) The communication is in writing;

8 (2) The writing is posted to an online message board or similar Internet application that is
9 viewable and searchable by the public and cannot be edited; and

10 (3) The communication is displayed in realtime and displayed on the online message board
11 or similar Internet application for no less than three hundred and sixty-five (365) days after the
12 communication is first posted.

13 (b) A public body may have no more than one online message board or similar Internet
14 application to be used for the purposes described in subsection (a) of this section. The online
15 message board or similar Internet application must be owned or controlled by the public body,
16 prominently displayed on the public body's primary Internet webpage, and no more than one click
17 away from the public body's primary Internet webpage.

18 (c) The online message board or similar Internet application described in subsection (a) of
19 this section may only be used by persons authorized by the public body. In the event that a staff
20 member posts a communication to the online message board or similar Internet application, the
21 name and title of the staff member must be posted along with the communication.

22 (d) If a public body removes from the online message board or similar Internet application
23 a communication that has been posted three hundred and sixty-five (365) days, the public body
24 shall maintain the posting for a period of five (5) years. This communication is public information
25 and must be disclosed in accordance with chapter 2 of title 38.

26 (e) The public body may not vote or take any action on any matter by posting a
27 communication to the online message board or similar Internet application.

28 **42-46-5.1. Open electronic communications.**

29 (a) The use of electronic communication, including telephonic, text, electronic mail,
30 facsimile, teleconferencing, instant messaging, social networking, or similar means of
31 communications shall not be used by any member of a public body to, circumvent the spirit or
32 requirements of this chapter; provided that, electronic communication may be used to:

33 (1) Schedule a meeting or determine the availability of members of a public body for the
34 purpose of conducting a meeting under this chapter.

1 (2) Allow a member of a public body to electronically communicate and participate in a
2 scheduled meeting of a public body if such member is on active duty in the armed services of the
3 United States and not physically present in the state of Rhode Island.

4 (3) Allow a member of a public body who has a disability as defined in chapter 87 of title
5 42 and:

6 (i) Cannot attend meetings of that public body solely by reason of their disability; and
7 (ii) Cannot otherwise participate in the meeting without the use of electronic
8 communication or telephone communication as a reasonable accommodation, to participate by use
9 of electronic communication or telephone communication in accordance with the waiver process
10 authorized pursuant to subsection (a)(4) of this section.

11 (4) The governor's commission on disabilities is authorized and directed to:

12 (i) Establish rules and regulations for determining whether a member of a public body is
13 not otherwise able to participate in meetings of that public body without the use of electronic
14 communication or telephone communication as a reasonable accommodation due to that member's
15 disability;

16 (ii) Grant a waiver that allows a member to participate by electronic communication or
17 telephone communication only if the member's disability would prevent them from being
18 physically present at the meeting location, and the use of such communication is the only
19 reasonable accommodation; and

20 (iii) Any waiver decisions shall be a matter of public record.

21 **42-46-5.2. Exclusions.**

22 This chapter shall not apply to proceedings of the judicial branch of state government or
23 probate court or municipal court proceedings in any city or town.

24 **42-46-5.3. Disruptive conduct.**

25 Nothing in this chapter shall prohibit the removal of any person who willfully disrupts a
26 meeting to the extent that orderly conduct of the meeting is seriously compromised. No one other
27 than a public body or a person designated to do so by the public body shall order a person removed
28 for violating the provisions of this section.

29 **42-46-5.4. Rolling quorum.**

30 Use of a rolling quorum shall constitute a violation of this chapter.

31 **42-46-6.1. Joint meeting.**

32 In the event of a joint meeting each public body shall be responsible for providing public
33 notice and minutes as otherwise required by this chapter.

34 **42-46-6.2. Emergency meeting - Notice.**

1 (a) A public body may hold an emergency meeting, upon an affirmative vote of the majority
2 of the members of the body when the meeting is deemed necessary to address an unexpected
3 occurrence that requires immediate action to protect the public.

4 (b) If an emergency meeting is called, a meeting notice and agenda shall be posted as soon
5 as practicable and shall be electronically filed with the secretary of state pursuant to subsection (c)
6 and of this section;

7 (c) Upon convening of an emergency meeting, the public body shall state for the record
8 and in the open minutes why the matter must be addressed in less than forty-eight (48) hours in
9 accordance with § 42-46-6(b) and only discuss the issue or issues which created the need for an
10 emergency meeting. Nothing contained herein shall be used to circumvent the spirit and
11 requirements of this chapter.

12 **42-46-6.3. Public comment.**

13 (a) A public body, or the members thereof, shall not be prohibited from responding to
14 comments initiated by a member of the public during a properly noticed open forum even if the
15 subject matter of a citizen's comments or discussions were not previously posted, provided such
16 matters shall be for informational purposes only and may not be voted on except where necessary
17 to address an unexpected occurrence that requires immediate action to protect the public or to refer
18 the matter to an appropriate committee or to another body or official.

19 (b) Nothing contained in this chapter requires any public body to hold an open forum
20 session, to entertain or respond to any topic nor does it prohibit any public body from limiting
21 comment on any topic at such an open forum session. No public body, or the members thereof, may
22 use this section to circumvent the spirit or requirements of this chapter.

23 (c) All notices required by this section to be filed with the secretary of state shall be
24 electronically transmitted to the secretary of state in accordance with rules and regulations which
25 shall be promulgated by the secretary of state.

26 (d) If a public body fails to transmit notices in accordance with this section, then any
27 aggrieved person may file a complaint with the attorney general in accordance with § 42-46-8.

28 **42-46-6.4. Compliance by public bodies.**

29 Not later than January 1, 2022, and annually thereafter, each public body shall state in
30 writing to the attorney general that it has designated a certified open meetings compliance officer
31 who has responsibility for compliance with this chapter and has been provided orientation and
32 training regarding this chapter. The attorney general may, in accordance with the provisions of
33 chapter 35 of title 42, promulgate rules and regulations necessary to implement the requirements
34 of this section.

1 **42-46-7.1. Livestreaming.**

2 (a) Effective January 1, 2022, all quasi-public boards, agencies and corporations as defined
3 in § 42-155-3 and provided for in the findings in § 42-155-2, as well as all city and town councils
4 and elected and appointed school boards or committees excluding subdivisions thereof, shall video
5 record in digital format its meetings and hearings, or portions thereof, that are required to be public
6 pursuant to this chapter. Such recordings shall be webcast live, where practicable, and shall be
7 made available to the public on the public body's website as well as a website maintained by the
8 secretary of state not more than seventy-two (72) hours after adjournment of the meeting or the
9 hearing recorded where they shall be available for at least five (5) years.

10 (b) The secretary of state shall have the power and authority to promulgate rules and
11 regulations related to the quality, content, and manner of the livestreaming as well as the hardware
12 or software necessary to implement the provisions of this section.

13 (c) Furthermore, all closed sessions shall be audio or video recorded in digital format and
14 retained for at least five (5) years such that they are available for public inspection unless otherwise
15 exempt; provided, however, the attorney general shall have access for purposes of investigating a
16 complaint pursuant to § 42-46-8.

17 SECTION 3. Section 45-9-6 of the General Laws in Chapter 45-9 entitled "Budget
18 Commissions" is hereby amended to read as follows:

19 **45-9-6. Composition of budget commission.**

20 (a) If a budget commission is established under §§ 45-9-5 or 45-12-22.7, it shall consist of
21 five (5) members: three (3) of whom shall be designees of the director of revenue; one of whom
22 shall be the elected chief executive officer of the city; and one of whom shall be a council member
23 of the town or city elected to serve on the budget commission as chosen by a majority vote of said
24 town or city council. In cities or towns in which the elected chief executive officer for purposes of
25 this chapter is the president of the city or town council, one member shall be the appointed city or
26 town manager or town administrator (or, if none, the city or town chief financial officer) as the fifth
27 member. For a fire district, it shall consist of five (5) members: three (3) of the members of the
28 budget commission shall be designees of the director of revenue; one shall be the chairperson of
29 the district's governing body; and one shall be the fire chief of the district. The budget commission
30 shall act by a majority vote of all its members. The budget commission shall initiate and ensure the
31 implementation of appropriate measures to secure the financial stability of the city, town, or fire
32 district. The budget commission shall continue in existence until the director of revenue abolishes
33 it.

34 The budget commission shall be subject to chapter 2 of title ~~36~~ 38, "Access to Public

1 Records," ~~and~~ chapter 14 of title 36, "Code of Ethics" [and chapter 46 of title 42 "Open Meetings](#)
2 [Act](#)". ~~The budget commission shall be subject to chapter 46 of title 42 "Open Meetings" when~~
3 ~~meeting to take action on the following matters:~~

- 4 (1) ~~Levy and assessment of taxes;~~
- 5 (2) ~~Rulemaking or suspension of rules;~~
- 6 (3) ~~Adoption of a municipal or fire district budget;~~
- 7 (4) ~~Approval of collective bargaining agreements and amendments to collective bargaining~~
8 ~~agreements; and~~
- 9 (5) ~~Making a determination under § 45-9-7 that the powers of the budget commission are~~
10 ~~insufficient to restore fiscal stability to the city, town, or fire district.~~

11 (b) Action by the budget commission under this chapter shall constitute action by the city,
12 town, or fire district for all purposes under the general laws, under any special law, and under the
13 city, town, or fire district charter.

14 (c) Until the budget commission ceases to exist, no appropriation, borrowing authorization,
15 transfer, or other municipal or fire district spending authority, shall take effect until approved by
16 the budget commission. The budget commission shall approve all appropriations, borrowing
17 authorizations, transfers, and other municipal or fire district spending authorizations, in whole or
18 part.

19 (d) In addition to the authority and powers conferred elsewhere in this chapter, and
20 notwithstanding any city, town, or fire district charter provision, or local ordinance, or rule or
21 regulation to the contrary, the budget commission shall have the power to:

22 (1) Amend, formulate, and execute the annual municipal or fire district budget and
23 supplemental municipal or fire district budgets of the city, town, or fire district, including the
24 establishment, increase, or decrease of any appropriations and spending authority for all
25 departments, budget commissions, committees, agencies or other units of the city, town, or fire
26 district; provided, however, that notwithstanding §§ 16-2-9 and 16-2-18, this clause shall fully
27 apply to the school department and all school spending purposes;

28 (2) Implement and maintain uniform budget guidelines and procedures for all departments;

29 (3) Amend, formulate and execute capital budgets, including amending any borrowing
30 authorization, or financing or refinancing of any debt in accordance with the law;

31 (4) Amortize operational deficits in an amount as the director of revenue approves and for
32 a term not longer than five (5) years;

33 (5) Develop and maintain a uniform system for all financial planning and operations in all
34 departments, offices, boards, commissions, committees, agencies, or other units of the city's,

1 town's, or fire district's government;

2 (6) Review and approve or disapprove all proposed contracts for goods or services;

3 (7) Notwithstanding any general or special law to the contrary, establish, increase, or
4 decrease any fee, rate, or charge, for any service, license, permit, or other municipal or fire district
5 activity, otherwise within the authority of the city, town, or fire district;

6 (8) Appoint, remove, supervise, and control all city, town, or fire district employees and
7 have control over all personnel matters other than disciplinary matters; provided, that the budget
8 commission shall hold all existing powers to hire and fire and set the terms and conditions of
9 employment held by other employees or officers of the city, town, or fire district; provided, further,
10 that the budget commission shall have the authority to exercise all powers otherwise available to a
11 municipality or fire district regarding contractual obligations during a fiscal emergency; provided,
12 further, that no city, town, or fire district employee or officer shall hire, fire, transfer, or alter the
13 compensation or benefits of a city, town, or fire district employee except with the written approval
14 of the budget commission; and provided, further, that the budget commission may delegate or
15 otherwise assign these powers with the approval of the director of revenue;

16 (9) Alter or eliminate the compensation and/or benefits of elected officials of the city, town,
17 or fire district to reflect the fiscal emergency and changes in the responsibilities of the officials as
18 provided by this chapter;

19 (10) Employ, retain, and supervise such managerial, professional, and clerical staff as are
20 necessary to carry out its responsibilities; provided, however, that such employment, retention and
21 supervisory decisions are subject to the approval of the director of revenue; provided, further, that
22 the budget commission shall not be subject to chapter 2 of title 37 or chapter 55 of title 45 in
23 employing such staff; provided, further, that the budget commission, with the approval of the
24 director of revenue, shall have authority to set the compensation, terms, and conditions of
25 employment of its own staff; provided, further, that the city, town, or fire district shall annually
26 appropriate amounts sufficient for the compensation of personnel hired under this clause as
27 determined and fixed by the budget commission; provided, further, that, if the city, town, or fire
28 district fails to appropriate such amounts, the director of revenue shall direct the general treasurer
29 to deduct the necessary funds from the city's, town's, or fire district's distribution of state aid and
30 shall expend those funds directly for the benefit of the budget commission;

31 (11) Reorganize, consolidate, or abolish departments, commissions, authorities, boards,
32 offices, or functions of the city, town, or fire district, in whole or in part, and to establish such new
33 departments, commissions, authorities, boards, offices, or functions as it deems necessary, and to
34 transfer the duties, powers, functions and appropriations of one department, commission, board,

1 office, or other unit to another department, commission, authority, board, or office, and in
2 connection therewith, remove and appoint new members for any such commission, authority,
3 board, or department which appointees shall serve the remainder of any unexpired term of their
4 predecessor;

5 (12) Appoint, in consultation with the director of revenue, persons to fill vacancies on any
6 authority, board, committee, department, or office;

7 (13) Sell, lease, or otherwise transfer, real property and other assets of the city, town, or
8 fire district with the approval of the director of revenue;

9 (14) Purchase, lease, or otherwise acquire, property or other assets on behalf of the city,
10 town, or fire district with the approval of the director of revenue;

11 (15) Enter into contracts, including, but not limited to, contracts with other governmental
12 entities, and such other governmental entities are hereby authorized to enter into such contracts;

13 (16) Adopt rules and regulations governing the operation and administration of the city,
14 town, or fire district that permit the budget commission to effectively carry out this chapter under
15 § 42-35-3(b);

16 (17) Alter or rescind any action or decision of any municipal or fire district officer,
17 employee, board, authority, or commission within fourteen (14) days after receipt of notice of such
18 action or decision;

19 (18) Suspend, in consultation with the director of revenue, any rules and regulations of the
20 city, town, or fire district;

21 (19) Notwithstanding any other general law, special act, charter provision, or ordinance,
22 and in conformity with the reserved powers of the general assembly pursuant to Article XIII, section
23 5 of the constitution of the state, a budget commission is authorized to issue bonds, notes, or
24 certificates of indebtedness to fund the deficit of a city, town, or fire district without regard to § 45-
25 12-22.4, to fund cash flow and to finance capital projects. Bonds, notes, or certificates of
26 indebtedness issued under authority of this chapter shall be general obligation bonds backed by the
27 full faith and credit and taxing power of the city, town, or fire district; provided, however, that the
28 budget commission may pledge future distributions of state aid for the purpose of retiring such
29 bonds, notes, or certificates of indebtedness. If any state aid is so pledged, the budget commission
30 shall execute on behalf of the city, town, or fire district a trust agreement with a corporate trustee,
31 which may be any bank or trust company having the powers of a trust company within the state,
32 and any state aid so pledged shall be paid by the general treasurer directly to the trustee to be held
33 in trust and applied to the payment of principal and interest on such bonds, notes, or certificates of
34 indebtedness; any earnings derived from the investment of such pledged aid shall be applied as

1 needed to the payment of that principal and interest and for trustee's fees and related expenses, with
2 any excess to be paid to the city, town, or fire district. Bonds, notes, or certificates of indebtedness
3 authorized under authority of this chapter shall be executed on behalf of the city, town, or fire
4 district by a member of the commission and, except as provided for in this chapter, may be subject
5 to the provisions of chapter 12 of title 45 so far as apt, or may be subject to the provisions of any
6 special bond act enacted authorizing the issuance of bonds of a city, town, or fire district so far as
7 apt; provided, however, that any bonds or notes issued for school purposes must be approved by
8 the general assembly in order to qualify for school housing aid as set forth in chapter 7 of title 16;
9 and

10 (20) Exercise all powers under the general laws and this chapter, or any special act, any
11 charter provision or ordinance that any elected official of the city, town, or fire district may
12 exercise, acting separately or jointly; provided, however, that with respect to any such exercise of
13 powers by the budget commission, the elected officials shall not rescind nor take any action
14 contrary to such action by the budget commission so long as the budget commission continues to
15 exist.

16 (21) Certify to the Rhode Island department of revenue the need to advance payments of
17 the state's basic education program under chapter 7 of title 16 in the amount determined by the
18 budget commission. Said amount shall be advanced, subject to approval of the director of the
19 department of revenue, notwithstanding any general or public law to the contrary. The director of
20 the department of revenue shall provide notice of any advance payments to the fiscal advisors of
21 the house and senate finance committees. The state general treasurer shall deduct the estimated cost
22 to the state's general fund resulting from any advance payments.

23 SECTION 4. This act shall take effect upon passage.

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LC002294
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT - OPEN MEETINGS

1 This act would amend multiple sections relating to "open meetings" including utilizing
2 advances in technology for observing meetings, how quorums are calculated, procedures for closed
3 meetings and notice requirements.

4 This act would take effect upon passage.

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LC002294
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