ALABAMA WORKFORCE INVESTMENT SYSTEM
Department of Commerce
401 Adams Avenue
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Montgomery, Alabama 36130-4103

July 14, 2022

GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY2022-01

SUBJECT: State and Local Workforce Development Boards Electronic Meetings Policy

1. Purpose. To provide the State's Workforce Development Boards with guidance to determine which meetings can be held electronically and the guidelines by which they must be held, in order to remain in compliance with the Alabama Open Meetings Act.

2. Discussion. Senate Bill No. 147 (SB147) amends the Alabama Open Meetings Act to allow for electronic meetings to be held by the State and Local Workforce Development Boards statewide. The Bill was passed by the House and the Senate and signed into law by Governor Kay Ivey on April 15, 2022. According to the bill's language, the act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law. Therefore, the bill and the requirements of this directive become **effective on July 1, 2022**.

Senate Bill No. 147 establishes procedures by which governmental bodies can meet electronically and provide for attendance and participation by its members and the general public. As the bill relates to Alabama's State and Local Workforce Development Boards, hereafter referred to as Boards, those procedures are listed as follows:

- Boards must be comprised of members from two (2) or more counties.
- Boards may conduct meetings by means of telephone, video platforms, or other similar communications equipment.
- Board meetings must allow for all persons (Board members) participating in the meeting to hear each other at the same time.
- Participation by electronic means shall constitute presence in person at the meeting for all purposes.
- A minimum of three (3) persons (Board members), or a majority of the quorum as defined by the Board's bylaws, whichever is less, are physically present at the physical meeting location.
- If a Board member is participating in a meeting by electronic means, the Board shall ensure that an electronic means of access to the meeting is published in the same manner as the notice of the meeting.
- The means of access shall allow members of the public to hear the meeting. The Board is not required to allow the public to participate by electronic means to any extent beyond being able to hear the meeting.

- Every meeting shall have one (1) physical location available for persons wishing to be physically present, at which any interested member of the public shall be able to hear all persons who are participating remotely. That location shall be published in a manner consistent with the current requirements of the Alabama Open Meetings Act.
- Any vote taken at a Board meeting where Board members are attending electronically, shall be taken as a Roll Call Vote that allows each participant to vote individually in a manner audible to all persons participating, including those present at the physical location. Documentation confirming that a Roll Call Vote has been taken shall be made part of the meeting minutes.
- A Board member participating in a meeting by electronic means may not claim any form of reimbursement for expenses relating to that meeting.
- If the electronic communications fail or are in any way interrupted during a meeting that is otherwise in compliance, that failure shall not be grounds to challenge any action taken during the meeting.

The attached document (SB147) contains the official wording used to amend the Alabama Open Meetings Act as approved by the House and Senate. Any discrepancies in terminology will be decided based on the wording used in the legislation as signed by the Governor.

3. <u>Action.</u> The Department of Commerce Workforce Development Division will work with the State Workforce Development Board and the staff from the State's Local Workforce Development Areas to develop technical protocols that will enable effective electronic communication while maintaining compliance with the requirements of this directive and SB147. <u>All</u> Local Workforce Development Areas and their Boards, as well as the State Workforce Development Board, are subject to the requirements of this directive as of **July 1, 2022**.

4. <u>Contact.</u> Questions regarding the State Workforce Development Boards Electronic Meetings Policy should be directed to Danny Cheek, Workforce Development Division at (334) 353-5163 or daniel.cheek@commerce.alabama.gov.

tammy Wilkinson

Tammy Wilkinson, WDD Director
Alabama Department of Commerce

Attachments: Senate Bill No. 147

SB147

ENROLLED, An Act,

Relating to meetings of governmental bodies; to amend Section 36-25A-5.1, Code of Alabama 1975, relating to meetings of governmental bodies by electronic means, to further provide for the participation by members of a governmental body at a meeting held by electronic means; to provide further for public participation at a meeting held by electronic means; to add Section 36-25A-5.2 to the Code of Alabama 1975, to provide for electronic attendance at meetings of local governmental bodies by members and the public; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-25A-5.1, Code of Alabama 1975, is amended to read as follows:

"§36-25A-5.1.

"(a)(1) Except as provided in subsection (d), members of a governmental body as defined in Section 36-25A-2, that is comprised of members from two or more counties, may participate in a meeting of that governmental body by means of telephone conference, video conference, or other similar communications equipment which allows all persons

participating in the meeting to hear each other at the same time. Participation by ~~such~~ these electronic means shall constitute presence in person at the meeting for all purposes~~,~~ ~~except for the establishment of a quorum~~; provided, that at least three members, or a majority of a quorum of members, whichever is less, are physically present at the physical meeting location required by subsection (b).

"(2) If a member is participating in a meeting of a governmental body by electronic means as authorized in this section, the governmental body shall ensure that means of access to the electronic communication is published in the same manner as the notice of the meeting is published pursuant to this chapter.

"(3) The means of access shall allow members of the public to hear the meeting. A governmental body is not required to allow the public to participate by electronic means to any extent beyond being able to hear the meeting.

"(b) Every meeting shall have one physical location available for persons wishing to be physically present, at which any interested member of the public shall be able to hear all persons who are participating remotely, and that location shall be published in a manner consistent with this chapter.

"(c) ~~Utilization~~ Except as otherwise provided by this section, use of electronic communication shall be done in

a manner that complies with this chapter ~~and allowing members of the public to be present at the physical location required by subsection (b) is sufficient for compliance with this chapter and the electronic communication does not have to be otherwise made available to members of the public~~.

"(d) The members of the following governmental bodies are prohibited from participating in meetings and deliberation via electronic communications as otherwise authorized by this section:

"(1) The Board of Pardons and Paroles~~, the~~.

"(2) The Public Service Commission~~, standing~~.

"(3) Standing committees of the Legislature while the Legislature is in session~~, a~~.

"(4) A governing board taking any action under the Students First Act of 2011~~, any~~.

"(5) Any state board or agency acting in any quasi judicial capacity involving employment actions or the ~~promulgation~~ adoption of rules pursuant to statutory authority~~, any~~.

"(6) Any state board, agency, or other governmental body conducting a hearing which could result in loss of licensure or professional censure~~, and the~~.

"(7) The Alabama Ethics Commission.

"~~(e) Any other provision of this section to the contrary notwithstanding, a majority of a quorum of the~~

~~members participating in any given meeting shall be physically present at the location noticed and called for the meeting in order to conduct any business or deliberation, and only those members who are physically present may participate in an executive session of the governmental body.~~

"~~(f)~~ (e) Any vote taken at a meeting utilizing the equipment contemplated by subsection (a) shall be taken as a roll call vote that allows each participant to vote individually in a manner audible to all persons participating or present at the physical location provided for in subsection (b).

"~~(g) No member utilizing this section~~ (f) A member participating in a meeting by means provided by this section ~~shall~~ may not claim any form of reimbursement for expenses relating to that meeting, including mileage and per diem.

"(g) If the electronic communications fail or are in any way interrupted during a meeting otherwise in compliance with this chapter, that failure shall not be grounds to challenge any action taken during the meeting.

"(h) Any governmental body comprised of members from two or more counties with specific statutory or constitutional authority to meet via electronic means under a procedure different than that set forth in this section may ~~continue to~~ operate under the requirements of that specific authority or

may adopt a resolution opting to come under the requirements of this section."

Section 2. Section 36-25A-5.2 is added to the Code of Alabama 1975, to read as follows:

§36-25A-5.2.

(a) Any governmental body as defined in Section 36-25A-2 that is of a county or a municipality or is an entity established by or whose members are appointed by a county or municipality may allow participation in a meeting of that governmental body by means of telephone conference, video conference, or other similar communications equipment that allows all participants to hear one another at the same time; provided, that both of the following are fulfilled:

(1) No less than a quorum of the members of the governmental body are physically present at the physical location required by subsection (d).

(2) The members of the body participating by electronic means as provided in this section are unable to be physically present at the meeting due to illness.

(b) Participation by electronic means as authorized in this section shall constitute presence in person at the meeting for all purposes, except for the establishment of a quorum.

(c) At least 45 days before the first meeting that a governmental body uses electronic means of communication as

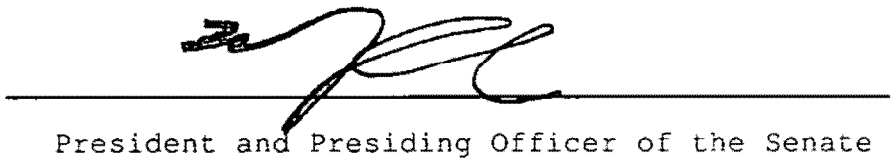
authorized by this section, the body shall adopt an electronic meeting policy detailing the procedures and communications equipment that will be used, how the public may access the meeting, and how voting will be conducted.

(d) Each meeting in which members of a governmental body are participating by electronic means as authorized in this section shall be held at a physical location available for persons wishing to be physically present, at which any interested member of the public shall be able to hear all persons who are participating remotely.

(e) Any vote taken at a meeting utilizing the equipment authorized by subsection (a) shall be taken as a roll call vote that allows each participant to vote individually in a manner audible to all persons participating or present at the physical location provided for in subsection (d).

(f) A member participating in a meeting by electronic means as provided by this section may not claim any form of reimbursement for expenses relating to that meeting, including mileage.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.



President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB147
Senate 09-FEB-22
I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 05-APR-22

Senate concurred in House amendment 05-APR-22

By: Senator Orr

APPROVED 4-14-2022

TIME 5:00 pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State
Act Num....: 2022-421
Bill Num...: S-147
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