

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 995 Regional Planning Council Meetings
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee, Geller
TIED BILLS: IDEN./SIM. **BILLS:** SB 1004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N, As CS	Moehrle	Harrington
2) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Miller	Miller
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law allows certain agencies to conduct public meetings, hearings, and workshops in person or by means of communications media technology. The board members may participate in the public meetings and vote via communications media technology if the meeting notice stipulates that the member will be participating via such means. While clear authority exists to allow state agencies to participate in public meetings and vote via communications media technology, such authorization does not exist for local government entities. Instead, local board members may only participate in meetings where formal action will be taken and vote remotely if a quorum of a local board is physically present at the public meeting and only if extraordinary circumstances require the member to appear remotely.

This bill authorizes the use of communication media technology for board meetings of regional planning councils (RPC) that cover three or more counties. Specifically, the bill creates statutory quorum requirements for RPC meetings. The bill provides that if at least one-third of the voting members are physically present at the meeting location the remaining voting members may participate via telephone, real-time videoconferencing, or similar real-time electronic or video communication, which must be broadcast publicly at the meeting location. Moreover, the members participating remotely may be counted towards the quorum requirement. The member attending the meeting remotely must provide notice of his or her intent to appear remotely at least 24 hours before the scheduled meeting.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Meetings

Article I, section 24(b) of the Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., requires the Administration Commission⁵ to promulgate rules to create uniform rules of procedure for state agencies to use when conducting public meetings, hearings or workshops, including procedures for conducting meetings in person and by means of communications media technology.⁶ The agency must state in the notice that the public meeting, hearing, or workshop will be conducted by means of communications media technology, or if attendance may be provided by such means.⁷ The notice must also state how individuals interested in attending may do so.⁸ Notwithstanding the use of electronic media technology, all evidence, testimony, and argument presented at the public meeting must be afforded equal consideration, regardless of the method of communication.⁹ In addition to agencies required to comply with ch. 120, F.S., the Administrative Procedure Act (APA), certain entities created by an interlocal agreement may conduct public meetings and workshops via communications media technology.¹⁰

While current law allows state agencies and certain entities created by an interlocal agreement to conduct meetings and vote by means of communications media technology, there has been a question over whether or not local boards or agencies may conduct meetings in the same fashion.¹¹ The Office of Attorney General has opined that only state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board's request to conduct board meetings

¹ S. 286.011(1), F.S.

² *Id.*

³ S. 286.011(6), F.S.

⁴ S. 286.011(2), F.S.

⁵ S. 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet.

⁶ S. 120.54(5)(b)2, F.S. The term "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ S. 163.01(18), F.S. (Allowing public agencies located in at least five counties, of which at least three are not contiguous, may conduct public meetings and workshops by means of communications media technology).

¹¹ Robert Eschenfelder, *Modern Sunshine: Attending Public Meetings in the Digital Age*, 84 Fla. B.J. 28 (2010).

via electronic means.¹² The Attorney General reasoned that section 120.54(5)(b)2, F.S., limits its terms only to uniform rules that apply to state agencies.¹³ The Attorney General explained that “allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission.”¹⁴ The Attorney General reasoned that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local, thus “such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting.”¹⁵ However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to physically attend the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.¹⁶

Florida Regional Planning Councils

The Florida Regional Planning Council Act¹⁷ allows the creation of regional planning councils (RPC). The Legislature has recognized RPCs as the “only multipurpose regional entity that is in position to plan for and coordinate intergovernmental solutions to growth-related problems on greater-than local issues, provide technical assistance to local governments, and meet other needs of the communities in each region.”¹⁸ RPCs span multiple counties within the geographical boundaries of any one comprehensive planning district.¹⁹ The voting membership of a regional planning council must consist of representatives living within the geographical area covered by the council.²⁰ The ten RPCs are as follows: West, Apalachee, North Central, Northeast, East Central, Tampa Bay, Central, Southwest, Treasure Coast and South.²¹ Each RPC consists of anywhere from 3 (South) to 12 Counties (North Central).²²

Effect of the Bill

This bill authorizes the use of communication media technology for board meetings of RPCs that cover three or more counties. Specifically, the bill establishes quorum requirements for meetings of RPCs. The bill provides that if at least one-third of the voting members are physically present at the meeting location the remaining voting members may participate via telephone, real-time videoconferencing, or similar real-time electronic or video communication, which must be broadcast publicly at the meeting location. The bill requires the member who will be appearing at the meeting via communications media technology to provide oral, written, or electronic notice to the planning council at least 24 hours before the scheduled meeting.

B. SECTION DIRECTORY:

Section 1. Amends s. 120.525, F.S., relating to meetings, hearings, and workshops.

Section 2. Provides an effective date of July 1, 2019.

¹² 98-28 Fla. Op. Att’y Gen. 2 (1998).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ S. 186.501, F.S.

¹⁸ S. 186.502(4), F.S.

¹⁹ S. 186.504, F.S.

²⁰ S. 186.504(2), F.S.

²¹ Florida Regional Councils Associations, <http://www.flregionalcouncils.org/> (last visited Mar. 7, 2019).

²² *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions or special requirements for specific agencies under the APA are generally located in s. 120.80 F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2019, the Oversight, Transparency & Public Management Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed references to regional agencies to reflect that the bill only applies to regional planning councils.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Public Management Subcommittee.