

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
14-37 (COR)	William A. Parkinson Roy Anthony Benavente Quinata Dwayne T. D San Nicolas Jesse A. Lujan	AN ACT TO ADD A NEW CHAPTER 11 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO CODIFYING A PROCEDURE FOR PUBLIC MEETINGS DURING A PUBLIC EMERGENCY AND ENSURING THE RIGHT OF THE PUBLIC TO ATTEND PUBLIC MEETINGS DURING PUBLIC EMERGENCIES; AND TO CITE THIS ACT AS "PUBLIC MEETINGS DURING EMERGENCIES ACT".	1/25/23 9:55 a.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 14-37 (COR)

Introduced by:

William A. Parkinson
Roy A.B. Quinata
Dwayne T. D. San Nicolas
Jesse A. Lujan

**AN ACT TO *ADD A NEW* CHAPTER 11 OF TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO
CODIFYING A PROCEDURE FOR PUBLIC MEETINGS
DURING A PUBLIC EMERGENCY AND ENSURING
THE RIGHT OF THE PUBLIC TO ATTEND PUBLIC
MEETINGS DURING PUBLIC EMERGENCIES; AND TO
CITE THIS ACT AS “*PUBLIC MEETINGS DURING
EMERGENCIES ACT*”.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 11 is added to Title 5, Guam Code Annotated, to
read:

“CHAPTER 11

PUBLIC MEETING DURING EMERGENCIES ACT

§ 11100. Short Title. This Act shall be cited as the “*Public Meeting During
Emergencies Act.*”

1 **§ 11101. Definition.**

2 (1) “Electronic” means relating to technology having electrical, digital,
3 magnetic, wireless, optical, electromagnetic, or similar capabilities.

4 (2) “Emergency declaration” means a declaration of emergency issued under
5 law of Guam.

6 (3) “Meeting” has the meaning of “meeting” in Chapter 8, Title 5 of the Guam
7 Code Annotated, the Open Government Law.

8 (4) “Observe” means listen to and watch, listen to, or watch, whether or not
9 permitted to participate.

10 (5) “Open Government Law” means Chapter 8, Title 5 of the Guam Code
11 Annotated.

12 (6) “Participate” means speak or submit a comment.

13 (7) “Person” means an individual, estate, business or nonprofit entity,
14 government or governmental subdivision, agency or instrumentality, or other legal
15 entity.

16 (8) “Public body” means an entity subject to the Open Government Law.

17 (10) “Record” means information:

18 (A) inscribed on a tangible medium; or

19 (B) stored in an electronic or other medium and retrievable in
20 perceivable form.

21 (11) “Virtual meeting” means a meeting of a public body during at least part
22 of which one or more members of the public body attend by electronic means.

23 **§ 11102. Scope.**

24 (a) This act applies to the conduct of a virtual meeting only while an
25 emergency declaration is in effect.

26 (b) This act does not limit or supersede other law authorizing a public
27 body to permit a member of the public body to participate, or a member of the

1 public to observe or participate, by electronic means, in a meeting of the
2 public body, whether or not an emergency declaration is in effect.

3 **§ 11103. Authorization for Virtual Meeting.**

4 (a) A public body may conduct a virtual meeting while an
5 emergency declaration that applies to all or part of the
6 jurisdiction of the public body is in effect if:

7 (1) the emergency declaration prohibits, limits, or has the
8 effect of prohibiting or limiting an in-person meeting of
9 the public body; or

10 (2) the presiding officer of the public body or other individual
11 authorized to act for the public body:

12 (A) determines it is not practical or prudent for the public
13 body to conduct an in-person meeting because of the emergency;

14 (B) communicates to the members of the public body that
15 the meeting will be a virtual meeting; and

16 (C) takes reasonable steps to inform members of the public
17 that the meeting will be a virtual meeting.

18 (b) An action taken in a virtual meeting that complies with this act has
19 the same effect as an action taken in an in-person meeting of the public body.

20 (c) Other law that applies to an in-person meeting of a public body
21 applies, to the extent practicable, to a virtual meeting.

22 (d) This section shall not apply to sessions of the Guam Legislature. It
23 does apply to public hearings, informational hearings and roundtables and
24 other public meetings of the *I Liheslatura*.

25 **§ 11104. Conduct of Virtual Meeting.**

26 (a) A public body conducting a virtual meeting, to the extent
27 practicable, shall conduct the meeting using a means compatible with assistive

1 technology commonly used by individuals with disabilities and that facilitates
2 the accommodation needs of individuals with disabilities to access the
3 meeting.

4 (b) Except as provided in subsections (c) and (d), the means used to
5 conduct a virtual meeting must permit each member of the public body who
6 attends the meeting, contemporaneously and throughout the meeting, to see
7 and hear, and to be seen and heard by, the other members of the public body
8 who attend the meeting.

9 (c) If a member of a public body is unable to obtain visual access to the
10 virtual meeting but is able to obtain audio access that permits the member
11 contemporaneously and throughout the meeting to hear and be heard by the
12 other members of the public body who attend the meeting, the member may
13 attend the meeting by audio access.

14 (d) If a public body lacks the capacity to provide contemporaneous
15 visual access to a virtual meeting for members of the public body, the public
16 body may conduct the meeting by audio-only access that permits each
17 member of the public body who attends the meeting, contemporaneously and
18 throughout the meeting, to hear and be heard by the other members of the
19 public body who attend the meeting.

20 (e) A member of a public body who attends a virtual meeting is
21 considered present for all purposes, including for determination of a quorum
22 and voting, if contemporaneously and throughout the meeting the member
23 can:

24 (1) for a meeting conducted in compliance with subsection (b),
25 see and hear and be seen and heard by the other members of the public body
26 who attend the meeting; or

1 (2) for a meeting conducted in compliance with subsection (c) or
2 (d), hear and be heard by the other members of the public body who
3 attend the meeting.

4 (f) A member of a public body who attends a virtual meeting through
5 electronic means that provide audio-only access to the meeting shall state the
6 member's name each time the member speaks. A member's failure to state the
7 member's name does not invalidate an action taken in the virtual meeting.

8 (g) A vote taken in a virtual meeting must be by a process that identifies
9 the vote of each member of the public body.

10 (h) The minutes of a virtual meeting must report any vote taken, state
11 that the meeting was conducted by electronic means, identify the technology
12 used, and identify the members of the public body who attended by electronic
13 means.

14 **§ 11105. Public Observation.**

15 (a) If the open meetings law requires that the public be able to observe
16 contemporaneously all or part of a meeting of a public body:

17 (1) the public body shall permit the public to observe
18 contemporaneously a virtual meeting, or the part of a virtual meeting that
19 would be required to be open to the public if it were an in-person meeting;
20 and

21 (2) the public body shall provide technological means to allow
22 members of the public who observe the virtual meeting to see and hear or, if
23 the public body conducts the meeting by audio-only access under § 11104 §§
24 (d), to hear members of the public body and members of the public authorized
25 by the public body to speak in the meeting.

26 (b) A document, exhibit, or other record presented to a public body in
27 a virtual meeting that under the open meetings law would have been available

1 to the public at an in-person meeting must be made available to the public,
2 including members of the public observing or participating in a virtual
3 meeting under § 11106, contemporaneously with the virtual meeting to the
4 extent practicable.

5 **§ 11106. Public Participation.**

6 (a) If law of this state or a political subdivision of this state or a rule,
7 practice, or procedure adopted by the public body requires that members of
8 the public be permitted to participate in a meeting of the public body, the
9 public body, to the extent practicable, shall permit members of the public to
10 participate in a virtual meeting, subject to conditions that apply to an in-person
11 meeting of the public body.

12 (b) If members of the public are permitted to speak in a virtual meeting,
13 the technology used to conduct the meeting must permit members of the
14 public body and members of the public attending the meeting to hear the
15 members of the public who speak in the meeting.

16 (c) If a public body considers in a virtual meeting a matter affecting
17 the right or interest of a person entitled by other law of this state or a political
18 subdivision of Guam or by rule of the public body to participate, present
19 evidence, or examine or cross-examine witnesses in an in-person meeting, the
20 public body shall permit the person to use the same technology that the public
21 body uses to conduct the virtual meeting, or provide equivalent access, to
22 participate, present evidence, or examine or cross-examine witnesses in the
23 virtual meeting.

24 (d) A person to which subsection (c) applies may object that the virtual
25 meeting does not allow the person effectively to protect the person's right or
26 interest. The public body shall consider the objection and may proceed with
27 the matter in the virtual meeting if the public body determines the virtual

1 meeting will allow the person effectively to protect the right or interest. The
2 public body shall state in a record the determination and the reason for the
3 determination.

4 **§ 11107. Notice.** In addition to any other requirement concerning notice a
5 public body must give for a meeting of the public body, notice of a virtual meeting
6 must specify:

7 (1) that the meeting will be a virtual meeting;

8 (2) the technology to be used for the meeting;

9 (3) how members of the public can observe the meeting
10 contemporaneously under § 11105;

11 (4) if permitted under § 11106, how members of the public can
12 participate, present evidence, or examine or cross-examine witnesses in the
13 meeting;

14 (5) how a member of the public can alert the public body of a technical
15 problem preventing the member from accessing the meeting; and

16 (6) how a reasonable accommodation can be requested by or for a
17 member of the public with a disability.

18 **§ 11108. Rulemaking Authority.** A public body may adopt rules the
19 Administrative Adjudication Act for conducting a virtual meeting under this act. The
20 rules may include:

21 (1) the means by which the public body will inform members of the
22 public that a virtual meeting will be held;

23 (2) the effect of a technical problem that interferes with a virtual
24 meeting or access to the meeting by a member of the public body or the public;

25 (3) the means by which a record considered in a virtual meeting is made
26 available to the public body and, if required by other law, the public;

1 (4) the means for access to a virtual meeting by an individual with a
2 disability; and

3 (5) the process by which a person may object under § 11106 §§ (d).”

4 **Section 2. Effective date.** This Act shall be effective upon enactment.

5 **Section 3. Severability.** If any provision of this Act or its application to
6 any person or circumstance is found to be invalid or contrary to law, such invalidity
7 shall not affect other provisions or applications of this Act that can be given effect
8 without the invalid provision or application, and to this end the provisions of this
9 Act are severable.

From: Senator Will Parkinson <senatorparkinson@guamlegislature.org>
Sent: Wednesday, January 25, 2023 9:55 AM
To: clerks@guamlegislature.org
Cc: Rennae Meno
Subject: Bill for Introduction:
Attachments: Bill for Intro - Public Meeting.docx; Bill Intro - Public Meeting.pdf


Hafa Adai!

Please see attached Bill to be introduced by Senator William A. Parkinson.

Please let me know if you have any questions or concerns.

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Respectfully,

Keith Taliugyan
Committee Director

	<p>Office of Senator William A. Parkinson 37th Guam Legislature <i>Chairperson, Committee on Fire, Agriculture, Power and Energy Utilities, Public Transit, Unemployment Insurance, and Universal Health Insurance</i></p> <p>— Suite 905, DNA Building, 238 Archbishop FC Flores St, Hagåtña, 96910, Guam 671-989-1101 senatorparkinson@guamlegislature.org</p>
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