

# Background Information

## 2022 MAWD Resolution

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*MAWD Support for Increased Flexibility in Open Meeting Law to Utilize Interactive Technology*

**WHEREAS**, the Open Meeting Law (Minnesota Statutes Chapter 13D) provides that the governing bodies of watershed districts and other units of government may hold meetings and provide for participation by board members through use of interactive technology, so long as there is a declaration of pandemic or emergency;

**WHEREAS**, during the COVID-19 pandemic, many public bodies, including watershed districts, used interactive technology to conduct public meetings; there were many benefits to using interactive technology platforms, including reduced travel costs and time to the public and the organizations using the platform; increased opportunities for public engagement; decreased barriers to public engagement; and increased equity and opportunity for potential leaders and participants;

**WHEREAS**, the current statute allows for members to participate in meetings through interactive technology, but absent a declaration of pandemic or emergency, requires that a member participating through interactive technology must be in a location that is open and accessible to the public and noticed as such; an exception is allowed up to three times in a calendar year for military deployment or medically documented personal health reasons (13D.02, subdivision 1(A)(5), subdivision 1(b));

**WHEREAS**, even absent a declaration of pandemic or emergency, remote meeting participation through the use of interactive technology provides benefits to facilitating member participation while also assuring that decision making is transparent and meetings are accessible to the public;

**NOW, THEREFORE, BE IT RESOLVED** that the Minnesota Association of Watershed Districts, Inc. hereby supports changes to the Open Meeting Law to provide greater flexibility in the use of interactive technology by allowing members to participate remotely in a nonpublic location that is not noticed, without limit on the number of times such remote participation may occur; and allowing public participation from a remote location by interactive technology, or alternatively from the regular meeting location where interactive technology will be made available for each meeting, unless otherwise noticed under Minnesota Statutes Section 13D.021;

**BE IT FURTHER RESOLVED** that the Minnesota Association of Watershed Districts, Inc. supports changes to the Open Meeting Law requiring watershed districts to prepare and publish procedures for conducting public meetings using interactive technology.

RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT

PROPOSAL TO AMEND Minnesota States Section 13D.02 as follows:

13D.02 OTHER ENTITY MEETINGS BY INTERACTIVE TECHNOLOGY.

Subdivision 1. **Conditions.**

(a) A meeting governed by Section 13D.01, subdivisions 1, 2, 4, and 5, and this section may be conducted by interactive technology so long as:

(1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;

(2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;

(3) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location where participation by interactive technology is available to members of the body and public present, unless participation at the regular meeting location is not practical or prudent under Section 13D.021; and

(4) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded. ~~and~~

~~(5) each location at which a member of the body is present is open and accessible to the public.~~

(b) A meeting satisfies the requirements of paragraph (a), although a member of the public body participates from a location that is not open or accessible to the public, ~~if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public, and:~~

~~(1) the member is serving in the military and is at a required drill, deployed, or on active duty; or~~

~~(2) the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This clause only applies when a state of emergency has been declared under section 12.31, and expires 60 days after the removal of the state of emergency.~~

Subdivision 4. **Notice of regular ~~and all member~~ locations.**

If interactive technology is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location, ~~and notice of any location where a member of the public body will be participating in the meeting by interactive technology, except for the locations of members participating pursuant to subdivision 1, paragraph (b).~~ The timing and method of providing notice must be as described in section 13D.04.

**Subdivision 6. Record.**

The minutes for a meeting conducted under this section must reflect the names of any members appearing by interactive technology, ~~and state the reason or reasons for the appearance by interactive technology.~~

**Subdivision 7. Public comment period.**

If a public body's practice is to offer a public comment period at in-person meetings, members of the public shall be permitted to comment from a remote location during the public comment period of the meeting, to the extent practical.

**Subdivision 8. Rules and procedures.**

A public body that conducts a meeting under this section must publish procedures for conducting meetings using interactive technology no later than December 31, 2022.

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### Efforts to solve the problem:

*Document the efforts you have taken to try to solve the issue. For example: have you spoken to state agency staff, legislators, county commissioners, etc.? If so, what was their response?*

The District has discussed trends in interactive technology use by watershed districts and other public bodies, as well as anticipated legislative action, with its attorneys. The District has no state agency, legislative, or county responses to report.

### Anticipated support or opposition:

*Who would be willing to partner with us on the issue? Who may be opposed to our efforts? (Ex. other local units of government, special interest groups, political parties, etc.)?*

The District anticipates support from organizations that experienced benefits from use of interactive technology for their public meetings that would like to continue to use the flexibility of interactive technology. The District also anticipates public support for the continued use of interactive technology, which has expanded access to public meetings.

Opposition may come from advocates for the existing Open Meeting Law.

### This issue: (check all that apply)

- Applies only to our district
- Applies only to 1 or 2 regions
- Applies to the entire state

- Requires legislative action
- Requires state agency advocacy
- Impacts MAWD bylaws or MOPP  
(MOPP = Manual of Policies and Procedures)

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## 2022 MAWD Resolution

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Proposing District: Riley Purgatory Bluff Creek Watershed District

Contact Name: Terry Jeffery, Interim District Administrator

Phone Number: 952-807-6885

Email Address: tjeffery@rpbcwd.org

Resolution Title: Increased Flexibility in Open Meeting Law to Utilize Interactive Technology

### **Background that led to the submission of this resolution:**

*Describe the problem you wish to solve and provide enough background information to understand the factors that led to the issue. Attach statutory or regulatory documents that may be helpful.*

Due to the impacts of the COVID-19 pandemic, the Open Meeting Law, Minnesota Statutes Chapter 13, was revised by the 2021 Minnesota Session Laws to provide increased flexibility for participation in public meetings by telephone and interactive technology. The revisions to Minnesota Statutes Sections 13D.02 and 13D.021 provide for this additional flexibility in the event that a health pandemic or emergency is declared under Chapter 12 of Minnesota Statutes. When the health pandemic or emergency is no longer declared, the standard, non-emergency meeting participation and notice requirements for remote participation by a member of a public body apply.

The standard, non-emergency language in the Open Meeting Law allows a member of a public body board to remotely attend and participate in a public meeting using interactive technology, provided that participation is from a public and publicly noticed location (13D.02 Subdivision 1 (5)); and 2). A member may participate remotely from a nonpublic location in a public meeting up to three times in a calendar year due to military deployment or medically documented personal health reasons.

Many public bodies, including watershed districts, successfully used interactive technology to conduct business, including public meetings, during the pandemic. Benefits to using these platforms that went beyond health and safety included reduced travel costs and time for the public and the organizations using the platform; increased opportunities for public engagement; lower barriers to public engagement; and increased equity and opportunity for potential leaders and participants.

This proposed resolution declares MAWD's support for changes to the Open Meeting Law that would eliminate the requirement that public body board members participating in a meeting remotely by interactive technology be in a public and publicly noticed location, and the limitation on the number of times a member may participate remotely in a calendar year. It requires public bodies to provide members of the public access to public meetings using interactive technology at the regular meeting location, at which at least one representative of the public body must be present. It requires that the public be provided the opportunity to offer public comment during the meeting from remote locations or the regular meeting location. It further requires that a public body conducting public meetings under the revised Open Meeting Law must publish procedures for conducting meetings using interactive technology to put its members and the public on notice.

**Ideas for how this issue could be solved:**

*Describe potential solutions for the problem. Provide references to statutes or rules if applicable.*

Revise Minnesota Statutes Section 13D.02 to eliminate the limitation on a member of a public body's remote participation in public meetings by interactive technology, and eliminate the requirement that the location of the member be public and noticed as such; provide opportunity for public participation by interactive technology at the regular meeting location; and require a public body that conducts a public meeting using interactive technology to publish procedures for conducting meetings using interactive technology.

All other requirements of the Open Meeting Law would continue to apply to ensure public access and transparency, including, but not limited to: roll call voting; public comment; ability to be seen and heard; public notice; representation by a member or designated representative at the regular meeting location; and recording and posting of public meeting minutes.