



DELAWARE GENERAL ASSEMBLY
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

TO: The Members of the 150th General Assembly

FROM: David B. McBride, President Pro Tempore of the Senate
Peter C. Schwartzkopf, Speaker of the House of Representatives

SUBJECT: Time and Place for Next Meeting

DATE: May 14, 2020

On March 12, 2020, in response to growing concerns about the spread of COVID-19, we closed Legislative Hall to the public and postponed legislative session until March 24, 2020, to ensure the safety of legislators, staff, and the public. The same day, Governor John C. Carney issued a state of emergency due to the public health threat posed by COVID-19. On March 18, 2020, with the public health threat worsening, we made the decision to close Legislative Hall to the public and postpone legislative session until further notice.

With the public health threat continuing, we began exploring options for the General Assembly to meet while continuing to ensure the safety of legislators, staff, and the public. After consultation with legal counsel, we have determined that the General Assembly may be recalled with legislators meeting “virtually” using audio or video technology.

Therefore, under §§ 5 and 9, Article II and § 1, Article XVII of the Delaware Constitution, Section 577 of Mason’s Manual on Legislative Procedure regarding our emergency powers, and Proclamation No. 17-3292 issued by Governor John C. Carney regarding virtual meetings of public bodies during the public health emergency caused by COVID-19, we declare that because members of the General Assembly are prevented from physically meeting in Dover due to the continuing public

health emergency, the General Assembly, including the legislative committees listed in this joint memorandum, will meet virtually, by remote participation, under the following procedures:

Legislative Public Bodies Called to Meet

The following legislative bodies are called to meet under this joint memorandum:

1. Senate.
2. House of Representatives.
3. Joint Finance Committee.
4. Joint Committee on Capital Improvement (Bond Committee).
5. Legislative Council.
6. A standing committee that is authorized to meet virtually by separate action of the Speaker, for a House standing committee, or the President Pro Tempore, for a Senate standing committee.

These legislative bodies are called to meet on dates determined by the President Pro Tempore, for the Senate, the Speaker for the House of Representatives, or the chair of a legislative committee authorized to meet under this joint memorandum. Notice for a meeting of these legislative bodies must meet the requirements of subsection (f) of the Virtual Meeting Procedures provided under this joint memorandum.

Virtual Meeting Procedures

(a) As used in this joint memorandum:

(1) “Chair” means a member who presides over and maintains order and decorum of a legislative committee.

(2) “Legislative committee” means one of the following:

- a. A joint committee of the General Assembly.

b. A standing committee that is authorized to meet virtually by separate action of the Speaker, for a House of Representatives standing committee, or the President Pro Tempore, for a Senate standing committee.

(3) “Member” means an individual elected to the General Assembly or the individual’s emergency interim successor under Chapter 17 of Title 29 of the Delaware Code.

(4) “Presiding officer” means the Speaker of the House of Representatives, President of the Senate, or a member who presides over and maintains order and decorum of the Senate or House of Representatives.

(5) “Virtual meeting” means a meeting that meets the requirements under subsection (b) of this joint memorandum.

(b) The Senate or House of Representatives or a legislative committee shall conduct a meeting and transact public business at which members participate remotely through the use of any means of communication by which all of the following occur:

(1) The identity of a member participating remotely is verified, and the actions of a member participating remotely are authenticated, in a manner satisfactory to the presiding officer or chair.

(2) During the meeting, all participating members simultaneously hear or read the comments of each member who is recognized by the presiding officer or chair.

(3) A document that is used during the meeting by a member and that is accepted by the presiding officer or chair is immediately transmitted to each member participating in the meeting.

(4) Except as provided under subsection (c) of this joint memorandum, the public is able to do the following:

- a. Contemporaneously access materials presented at the meeting.
- b. Monitor the proceedings.

c. For the meeting of a legislative committee under this subsection, provide public comment, if the committee is required to accept, or provides an opportunity for, public comment.

d. Review a recording of the meeting within a reasonable time after the meeting concludes.

(c)(1) Subsection (b)(4) of this joint memorandum does not apply if, under § 11, Article II of the Delaware Constitution, “the business is such as ought to be kept secret”.

(2) A technological failure that prevents, or a technological limitation that limits, public access otherwise required under subsection (b)(4) of this joint memorandum does not invalidate a virtual meeting or an action taken at a virtual meeting.

(d) A virtual meeting complies with § 5, Article II of the Delaware Constitution and, thus, all actions taken during a virtual meeting have the same legal effect as if the members were physically present at the seat of government.

(e)(1) For the purposes of determining quorum for a meeting of the Senate or House of Representatives or a legislative committee, a member participating remotely in a virtual meeting is considered present as if the member were physically present at the meeting.

(2) For the purposes of voting during a meeting of the Senate or House of Representatives or a legislative committee, a member participating remotely in a virtual meeting is able to vote as if the member were physically present at the meeting.

(f)(1) A virtual meeting must be preceded by the same or substantially equivalent public notice as would be required if the meeting were to be held at a physical location.

(2) The notice for a virtual meeting required to provide notice must include information on how the public can monitor a meeting of the Senate or House of Representatives or a legislative committee or participate in a meeting of a legislative committee that is required to accept, or provides an opportunity for, public comment.

(g) The presiding officer or chair presiding over a virtual meeting shall interpret and apply the rules of the Senate or House of Representatives or legislative committee that presume the physical presence of members in such a manner as to accomplish the same purposes for which the rules were adopted.

(h) The following procedures apply to participation and voting by members during a virtual meeting:

(1) Members participating in a virtual meeting shall join the meeting at least 30 minutes before the scheduled start time of the meeting.

(2) The presiding officer or chair shall cause members participating in a virtual meeting to be muted on entry into the meeting.

(3) To be recognized to speak by the presiding officer or chair, a member shall use the technological function that enables the member to be recognized. If a technological failure occurs, the presiding officer or chair may adopt an alternative method of recognizing members. On being recognized, the following must occur:

a. The presiding officer or chair shall cause the member to be unmuted.

b. The recognized member shall state the member's name each time before speaking.

(4) Votes must be taken by roll call.

Process for General Assembly or Legislative Committees on First Meeting

On the first meeting of the General Assembly, and consistent with Section 577 of Mason's Manual on Legislative Procedure, a concurrent resolution will be presented to the Senate and House of Representatives. The concurrent resolution provides for approval of the actions taken under this joint memorandum and adopts procedures to conduct virtual meetings of the General Assembly.

A legislative committee that meets before the first meeting of the General Assembly shall do the following:

1. Accept and approve the actions taken under this joint memorandum.
2. Adopt the procedures for conducting a virtual meeting contained in this joint memorandum as the procedures for the legislative committee's virtual meetings.
3. Review the legislative committee's rules and adopt changes necessary to enable the legislative committee to meet virtually.



David B. McBride
President Pro Tempore
Delaware State Senate



Peter C. Schwartzkopf
Speaker
Delaware House of Representatives