

TITLE 5 GOVERNMENT OPERATIONS
CH. 11 PUBLIC MEETING DURING EMERGENCIES ACT

CHAPTER 11
PUBLIC MEETING DURING EMERGENCIES ACT

SOURCE: Entire chapter added by P.L. 37-121 (July 22, 2024).

2024 NOTE: Entire chapter previously added as “Government Reorganization” by P.L. 17-081:14 (Dec. 18, 1984) codified as Title VI of the Government Code (§§ 5300-5301). Section 5302 added by P.L. 20-065:12 (Sept. 14, 1989), and codified to this chapter by the Compiler. Section 11102 amended by P.L. 27-034:2 (Oct. 31, 2003). Entire chapter “Government Reorganization” repealed by P.L. 34-087:8 (Mar. 16, 2018). Entire chapter added as “Public Meeting During Emergencies Act” by P.L. 37-121 (July 22, 2024).

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§ 11100. Short Title.

This Act shall be cited as the “Public Meetings During Emergencies Act.”

§ 11101. Definitions.

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

(b) “Emergency declaration” means a declaration of emergency issued pursuant to the laws of Guam.

(c) “Meeting” has the same meaning as that in Chapter 8 (the Open Government Law) of Title 5, Guam Code Annotated.

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

(e) “Open Government Law” means Chapter 8, Title 5, Guam Code Annotated.

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

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

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

(i) “Record” means information:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium and retrievable in perceivable form.

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

(k) “Public emergency” is an emergency as declared by *I Maga’håga/Maga’låhi*.

2024 NOTE: Reference to the “Governor” replaced with *I Maga’håga/Maga’låhi* pursuant to 5 GCA § 1510.

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§ 11102. Scope.

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

(b) This Act does not limit or supersede any other law authorizing a public body to permit a member of the public body to participate, or a member of the public to observe or participate, by electronic means, in a meeting of the public body, whether or not an emergency declaration is in effect.

§ 11103. Authorization for Virtual Meeting.

(a) A public body may conduct a virtual meeting while an emergency declaration that applies to all or part of the jurisdiction of the public body is in effect if the emergency declaration prohibits, limits, or has the effect of prohibiting or limiting an in-person meeting of the public body.

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

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

(d) This Section shall not apply to sessions of *I Liheslaturan Guåhan*. It does apply to public hearings, informational hearings and roundtables and other public meetings of *I Liheslatura*.

2024 NOTE: Reference to the “Guam Legislature” replaced with *I Liheslaturan Guåhan* pursuant to 2 GCA § 1101.

§ 11104. Conduct of Virtual Meeting.

(a) A public body conducting a virtual meeting, to the extent practicable, shall conduct the meeting using a means compatible with assistive technology commonly used by individuals with disabilities and that facilitates the accommodation needs of individuals with disabilities to access the meeting.

(b) The means used to conduct a virtual meeting must permit each member of the public body who attends the meeting, contemporaneously and throughout the meeting, to see and hear, and to be seen and heard by, the other members of the public body who attend the meeting.

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

(1) for a meeting conducted in compliance with Subsection (b), see and hear and be seen and heard by the other members of the public body who attend the meeting.

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

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

§ 11105. Public Observation.

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

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

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(2) the public body shall provide technological means to allow members of the public who observe the virtual meeting to see and hear members of the public body and members of the public authorized by the public body to speak in the meeting.

(b) A document, exhibit, or other record presented to a public body in a virtual meeting that under the open meetings law would have been available to the public at an in-person meeting must be made available to the public, including members of the public observing or participating in a virtual meeting under § 11106 of this Chapter, contemporaneously with the virtual meeting to the extent practicable.

§ 11106. Public Participation.

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

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

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

(d) A person to which Subsection (c) applies may object that the virtual meeting does not allow the person effectively to protect the person's right or interest. The public body shall consider the objection and may proceed with the matter in the virtual meeting if the public body determines the virtual meeting will allow the person effectively to protect the right or interest. The public body shall state in a record the determination and the reason for the determination.

§ 11107. Notice.

In addition to any other requirement concerning notice a public body must give for a meeting of the public body, notice of a virtual meeting must specify:

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

(b) the technology to be used for the meeting;

(c) how members of the public can observe the meeting contemporaneously under § 11105;

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

(e) how a member of the public can alert the public body of a technical problem preventing the member from accessing the meeting;

(f) how a reasonable accommodation can be requested by or for a member of the public with a disability;

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

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

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(i) the process by which a person or members may object under § 11106(d) of this Chapter.
