

**MINNESOTA COALITION ON GOVERNMENT INFORMATION
(MNCOGI)**

**Written Testimony of Matt Ehling, MNCOGI board member,
pertaining to SF 4461**

**Senate State and Local Government and Veterans Committee
March 19, 2024**

Dear Chair Dzedzic, Senator Mann, and committee members,

MNCOGI would like to submit the following comments related to SF 4461:

Background

Starting in the late 1990s, Minnesota's Open Meeting Law (OML) was modified to allow remote participation by a member of a governing body subject to the OML. As pertinent to this bill, the requirements for remote participation are codified in § 13D.02.

§ 13D.02 has several requirements related to the conduct of open meetings in which one or more participants appears via interactive technology (such as Zoom, Teams, or other technologies). Most of those requirements are not modified by SF 4461. However, two important requirements are changed by the bill, and those are the requirements that when a member of a public body appears remotely, they must be present in a location that is open and accessible to the public, and that location must be noticed.

The reason for these requirements, is that they allow members of the public (including constituents and members of the press) to have the kind of in-person interactions with members of governing bodies that are otherwise possible at the main meeting location. For constituents, the opportunity to have in-person interactions with elected officials before or after a meeting permits opportunities for discussions about public policy that are pertinent to items discussed at open meetings. Such interactions are helpful, since issues can be addressed quickly, and in the wake of (or prior to) important governmental decisions being made by a governing body. For members of the press, in-person access to elected officials allows for immediate comments for news stories. This is the reason why the "public place" and notice requirements of § 13D.02 were put in place. (See § 13D.02 subd. 1 and subd. 4).

Over time, as specific circumstances arose that presented challenges for in-person appearances (and where remote attendance without “public place” accessibility would serve a public policy purpose — such as containing the spread of a communicable disease), specific exceptions to the public place requirements were put into law, and were limited to being used three times a year. (These exceptions are currently found in § 13D.02 subd. 1(b)).

Impact of bill

SF 4461 eliminates the “public place” requirement in all circumstances, effectively allowing members of governing bodies to appear remotely any time, and for any purpose, without limitation.

While MNCOGI is open to having further discussions about additional exceptions to the “public place” requirements for § 13D.02, we feel that SF 4461 goes too far, by allowing remote attendance in too many circumstances. The practical effect could be that certain public bodies may move to an almost entirely remote model, in which only one member of the public body (and members of the public) attend the meeting at the regular meeting location (see § 13D.02 subd. 1). For entities that adopt this model, it would dramatically limit in-person access to government officials by members of the press and the public; and thus reduce the kind of useful, extemporaneous interactions that in-person access facilitates.

As noted, MNCOGI would be open to discussing further “public purpose” exceptions (properly cabinet), but does not feel that the unbounded approach of SF 4461 will be in the best interest of the public, or of the press.

Sincerely,

Matt Ehling
MNCOGI board member