

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

September 28, 2018

Mr. Charles Roberts
Alderman, City of Horn Lake
3650 Shadow Oaks Parkway
Horn Lake, Mississippi 38637

Re: Open Meetings Act - teleconference participation

Dear Mr. Roberts:

Attorney General Jim Hood received your letter of request and assigned it to me for research and response.

Issue Presented

You inquire as to whether an alderman may join a meeting via teleconference after the meeting has begun and for the sole purpose of joining the meeting to vote on a particular matter. Specifically, you ask the following:

My name is Charles Roberts and I currently serve as an elected Alderman in the City of Horn Lake, MS. I would like to request an opinion in regard to MS statutes 25-41-5 and/or 21-8-11 regarding opening meetings, specifically the use of teleconferencing and whether or not an alderman joining a meeting via teleconference should do so for the entirety of the meeting or can they join the meeting for a single vote.

Factual Background:

I would like to request an opinion on whether or not it is permissible under MS statute 25-41-5 and/or 21-8-11 or any other applicable statute, for an alderman not physically present at a Board of Aldermen meeting to be contacted once the meeting is underway in order to join the meeting via

teleconference in order to cast a vote on a single agenda item when there are multiple items present on an agenda. The majority of prior opinions I could locate on this topic primarily dealt with the notice requirement, which is no longer applicable. I have been unable to locate an opinion concerning the question presented. This opinion is being requested for future guidance.

Response

Pursuant to Mississippi Code Annotated Section 25-41-5(2), a member of a governing body may participate in a meeting of its governing body via teleconference means provided that the provisions of Section 25-41-5 have been met. Section 25-41-5 specifically provides:

(1) All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in Section 25-41-7.

(2) A public body may conduct any meeting through teleconference or video means. A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided that the equipment used is located at the place where the public body normally meets or at a public location specified in any notice of a special meeting, and provided that the equipment allows all members of the public body and members of the public who attend the meeting to hear the deliberations of the public body.

(3) An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to the members of the public body shall be made available to the public at the time of the meeting. Votes taken during any meeting conducted through teleconference or video means shall be taken in a manner that is clearly audible or visible to all members of the public body and to members of the public present at the public location.

Thus, it is clear that a member may participate in a meeting by way of teleconference means, and we find no restrictions which would prevent a member from participating in such a manner after the meeting has begun. In order to take official action in a municipal meeting, a quorum must be present. In our opinion to Marvin E. Wiggins, we

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opined that “[w]hen no quorum is present, discussion may occur but the only action that may be taken is to adjourn.” MS AG Op., Wiggins (December 16, 2016). Thus, assuming that a quorum exists, any member may vote on a matter via teleconference.

If our office may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Leigh Triche Janous
Special Assistant Attorney General

OFFICIAL OPINION