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## New England First Amendment Coalition

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*SENT VIA EMAIL TO JAMIE HOWELL-WALTON  
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Massachusetts Joint Committee on  
State Administration & Regulatory Oversight  
c/o Sen. Marc R. Pacheco and Rep. Antonio F. D. Cabral

**RE: SB 2028 / HB 3152 "An Act to Modernize Participation in Public Meetings"**

June 2, 2021

Dear Chairmen Pacheco and Cabral,

I'm writing on behalf of the New England First Amendment Coalition, the region's leading advocate for First Amendment freedoms and the public's right to know about what its government is doing.<sup>1</sup>

Despite two concerns regarding the waiver process that will be explained below, our coalition supports Senate Bill 2028 and House Bill 3152. As other states throughout the region reassess their respective open meeting laws relative to COVID-19, this legislation is a common-sense measure that will stand as a model to be followed.

The legislation will make permanent one of the few silver linings of the ongoing pandemic: remote access to public meetings and the increased engagement between citizens and government that results. By continuing to require in-person public access, the legislation also preserves the benefits of meeting with representatives face-to-face and being physically present during proceedings. Citizens can assemble in-person in solidarity with those supporting like causes, for example. Reporters can more easily follow up with officials. Remote meeting technology can't be used to unjustly silence speakers.

This expanded accessibility — allowing both in-person and remote access to public meetings — has been touted for years by open government advocates like ourselves. Timing and technology now present an opportunity the Commonwealth should embrace.

### **Empowering the Public and Press**

In addition to making a great stride toward universal access to government meetings, this legislation will also help increase transparency in a state known for secrecy. It will allow more oversight of government not only by the general public, but by local newsrooms whose coverage is often limited by shrinking staffs and a lack of financial resources.

There are communities throughout the Commonwealth that aren't receiving the news coverage they deserve.<sup>2</sup> A state commission was established earlier this year to research ways to address this crisis and mitigate the effects of "news deserts" and underserved communities.<sup>3</sup> While certainly not a cure-all for local journalism's ills, expanded accessibility to public meetings will undoubtedly lead to more oversight, less secrecy and better governance.

"This pandemic has shown us remote access to meetings and events works," says Janet Wu, a NEFAC board member and veteran political reporter at WCVB in Boston. "It opens doors to reporters bombarded with multiple developments in fast moving stories of vital interest to the public. This past year's experience with Zoom, Skype and other remote technology proves geographical barriers can be easily eliminated especially when dealing with important, time sensitive information."

Consider the following experience of Tim White, a NEFAC board member and investigative reporter at WPRI in Providence. White and his colleagues cover many southeastern Massachusetts communities.

“The ability to attend public meetings remotely has significantly increased our coverage of matters that are important to the communities we serve. From a practical standpoint, reporters are being asked to take on more assignments now than ever, and it is not unusual to publish a story at 6 p.m., then hop on a Zoom at 6:30 p.m. for another meeting. Before remote access, that hearing may have gone uncovered, leaving the public uninformed about matters impacting them directly. From a school committee meeting in New Bedford, to the Taunton City Council, we are able to be in multiple places quickly. While it is preferred to cover these meetings in person, which is what we try to do, it is better than not attending the meetings at all. The news landscape has contracted significantly in the last two decades. There are just fewer reporters on the ground than there were before. Remote meetings have allowed us to expand our reach to help keep the public informed.”

With the changes proposed by this legislation, journalists will no longer be burdened by the time and travel often needed to attend public meetings. Newsrooms can more easily cover those meetings and better inform their communities. Put simply, greater accessibility allows for greater coverage.

### **Waiver Process Concerns**

Our support of Senate Bill 2028 and House Bill 3152, however, does come with two caveats.

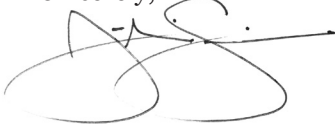
(1) The bills do not specify under what conditions a waiver for economic hardship should be granted. While there may be legitimate financial hurdles preventing remote access, there will also likely be public bodies who seek to take advantage of the waiver process for reasons of convenience, or worse, to outright deny public access. We suggest more guidance written into the legislation about the specific circumstances needed to be considered for a waiver. Additionally, public bodies should be required in their application to detail the actions being taken to avoid needing a waiver in the future.

(2) When a waiver is granted, the bill provides up to 10 business days for the public body to post a recording or other comprehensive record of the proceeding to its website. Providing two weeks to post a recording or its equivalent is excessive. A recording is complete upon the conclusion of the meeting and can be posted quickly and easily. A delay of two weeks is unreasonable, particularly when considering the public’s need for timely and accurate information.

Thank you for considering our testimony in support of Senate Bill 2028 and House Bill 3152. By creating ways to better facilitate public participation and oversight of government, we can use this pandemic as an opportunity to set a higher standard of transparency moving forward.

On behalf of the New England First Amendment Coalition, I welcome the opportunity to provide additional guidance on this legislation and any other bill implicating the First Amendment or the public’s right to know about government.

Sincerely,



**Justin Silverman**  
Executive Director

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**1** The New England First Amendment Coalition, a non-partisan non-profit organization, is led by some of the most esteemed attorneys, journalists and editors in the region. Please visit [nefac.org](http://nefac.org) to learn more about us and our leadership.

**2** For more information about the state of local journalism in Massachusetts, view NEFAC’s presentation “Local Journalism and Transparency in Massachusetts” at [https://youtu.be/VH\\_JVPzAzbo](https://youtu.be/VH_JVPzAzbo).

**3** For more information about the state’s recently established commission on journalism, view NEFAC Executive Director Justin Silverman’s interview with Northeastern University journalism professor Dan Kennedy, “Saving Local Journalism: How a Mass. Legislative Commission is Looking for Solutions,” at <https://youtu.be/hiQCW8QxeGs>.

