

LEGAL ALERT

Public Bodies Now Authorized to Attend Meetings Remotely During Disaster

Back on April 7, 2020, and again on April 10, 2020, we issued legal alerts regarding guidance from the Public Access Counselor (“PAC”) of the Illinois Attorney General on compliance with the Open Meetings Act.

Executive Orders 2020-07, 2020-10, 2020-20, 2020-33, and 2020-39 first signed on March 16, 2020 and extended on March 20, 2020, April 1, 2020, April 30, 2020, and May 29, 2020 suspend two provisions of the Open Meetings Act: (1) the requirement in Section 2.01 that members of a public body be physically present, and (2) the limitations in Section 7 on remote participation. The Executive Orders are effective for the duration of the Gubernatorial Disaster proclamation, which currently expires on June 27, 2020.

The legislature has finally acted to formalize the urgent need of public bodies for relief from the current Open Meetings Act provisions which still formally limits remote attendance by elected officials. Public Act 101-0640 authorizes local public bodies, subject to specific prerequisites, to attend meetings remotely if in-person attendance is not warranted because of disaster.

The rules and conditions for invoking this authority are set forth in more detail below.

A full copy of the legislation is available at www.ilga.gov/legislation/publicacts/101/101-0640.htm.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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Open Meetings Act – New Conditions for Remote Meetings

Sections 2.01 and 7(e) of the Open Meetings Act have been amended to allow public bodies to meet remotely in either open or closed session, under the following conditions:

- A disaster declaration has been issued by the Governor or Director of Illinois Department of Public Health under the Illinois Emergency Management Agency Act which covers the jurisdiction of the public body. Such declaration is currently in force across the State of Illinois.
- The head of the public body further declares that a meeting with a quorum of the public body physically present is not practical or prudent due to the disaster.
- The members of the public body participating in such meeting remotely by audio are considered present for the purpose of establishing a quorum.
- There are specific logistics required for such remote meetings:
 - Except in an emergency, the meeting notice continues to be 48 hours' notice in advance of such meeting. The notice is to be to all members of the public body, is to be posted on the public body website, and given to any news media who has requested notice of meetings under the Open Meetings Act.
 - A verbatim audio or video recording must be made of any remote meeting and be available to the public.
 - All the meeting participants of the public body are to announce their attendance and are able to hear all discussion, testimony, and votes at the meeting and one another.
 - All votes must be by roll call so that the specific votes can be identified to a specific official.
 - Either a member of the public body, legal counsel, or the chief administrative official of the public body have to be physically present at the regular meeting location of the public body, unless not feasible due to the disaster.
 - For open meetings, members of the public must be able to hear all of the discussions, testimony, and votes at the meetings and votes.

If it is not feasible for members of the public to attend the meeting at the actual, physical location of the public body's meetings due to the disaster, notice is to be provided to the public and alternate arrangements made available to the public which must allow the public to listen live to all discussions, testimony, and votes, such as by phone and web-link.

For members of the public that can attend the meeting at the regular physical location, there must be arrangements for such members to hear all of the live discussions, testimony, and votes of the public body.