



An Update on OMA Legislation Amendments

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Governor Whitmer has signed Senate Bill 1108 which amends the Open Meetings Act, PA 267 of 1976 (the "OMA"), to allow meetings of a public body to be held electronically or with remote participation under certain circumstances and to provide procedures and requirements for a meeting held that way. The law takes immediate effect.

OMA amendments related to absence of a member:

The law revises provisions of the OMA regarding absence of a member of a public body to require the public body to establish procedures to accommodate the absence of a member due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster. The procedures must provide for two-way communication. In addition, each member of the public body attending the meeting remotely must make a public announcement at the outset of the meeting, to be included in the minutes, that he or she is doing so. A member attending remotely for a reason other than military duty must further specify the county, city, township, or village and state where he or she is physically located.

OMA requirements related to electronic public meetings:

Under the new law, a meeting of a public body held wholly or partly electronically by telephonic or video conferencing in compliance with the provisions described below, and that is otherwise in compliance with compatible provisions of the OMA applicable to a non-electronic meeting, is permitted in the following circumstances:

- *Before January 1, 2021:* in any circumstances, including those requiring accommodation of absent members described below.

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PRACTICE AREAS

Municipal & Public Entity Law

Open Meetings Act

- *On and after January 1, 2021 - December 31, 2021:* only those circumstances requiring accommodation of members absent due to military duty, a medical condition, or a statewide or local state of emergency or disaster. In the circumstances of a state of emergency or disaster, a meeting could be held electronically only to allow the electronic attendance of a member who lives in the affected area or to allow the electronic meeting of a public body that regularly holds its meetings in the affected area.
- *After December 31, 2021:* only in the circumstances requiring accommodation of members absent due to military duty.

Electronic meetings must comply with the following requirements:

- If the meeting is held electronically to accommodate members absent due to military duty or a medical condition, only those members could participate remotely.
- The meeting must be conducted in a way that allows two-way communication so that the members of the public body can all hear one another. A public body may use technology that allows members of the public to submit typed comments that can be shared with all the meeting participants to satisfy the requirements that members of the public must be allowed to address the meeting and be able to be heard by others.
- A physical place is not required for an electronic meeting.
- A public body with an official internet presence must post advance notice of an electronic meeting on its website where the public can access it, either on or linked from its homepage, at least 18 hours before the start of the meeting.
- If an electronic meeting has an agenda, a public body with an official internet presence that includes regular updates of posted meeting agendas or minutes must make the agenda available to the public on the internet at least two hours before the start of the meeting.
- A public body may not require a person to register or provide his or her name or other information as a condition of participating in an electronic meeting, or require a person to otherwise fulfill a condition for attendance.
- Members of the public must be excluded from any closed sessions held electronically.

If you have any questions regarding the new law, please contact a Foster Swift municipal attorney.
