

Illinois Governor Issues Executive Order Temporarily Relaxing Portions of the Open Meetings Act; Attorney General Offers Guidance

April 2, 2020

Illinois Governor J.B. Pritzker, in response to the COVID-19 pandemic, has issued Executive Order 2020-07, which suspends the requirement of the Open Meetings Act that members of a public body be physically present at meetings of the public body, and the limitations of the Open Meetings Act as to when members of a public body may participate in meetings of the public body remotely.

The Executive Order, issued pursuant to the authority granted the Governor under Section 7 of the Illinois Emergency Management Agency Act, also encourages public bodies to postpone consideration of public business when possible, and encourages them to provide, video, audio and/or telephonic access to meetings to ensure members of the public may monitor the meeting, and to update the public bodies' web sites and social media feeds to keep the public fully apprised of modifications to their meeting schedules or the format of meetings.

Under the terms of the Emergency Act, the provisions of the Executive Order will expire on April 30, 2020. However, the Governor would be allowed under the Emergency Act to issue new, similar executive orders, each lasting for a period of up to 30 days.

In addition, the Public Access Counselor, a position with the Office of the Illinois Attorney General, issued Guidance as to the Executive Order. The Guidance includes the following advice:

Postponing or Cancelling Public Meetings

- If a public body chooses to cancel a public meeting, it should post the cancellation notice on its website, at its principal office and at the meeting location.
- Cancelling or changing an individual meeting does not require 10 days' notice by publication in a newspaper. The Open Meetings Act only requires this for a change in the schedule of regular meetings.

Physical Presence of Members to Make a Quorum

- The Executive Order suspends the normal requirement that a quorum of members of the public body be physically present at the meeting location, as well as the normal prerequisites for members to attend remotely.
- Accordingly, **no** members of a public body need be present at the noticed physical location of the meeting.

Open and Convenient Meetings

- In conjunction with another portion of the Executive Order prohibiting public and private gatherings of 50 or more people, public bodies are encouraged to cancel any meetings at which they expect more than 50 people to attend.
- Public bodies are encouraged to consider taking the following actions at their meetings to help curb the spread of COVID-19:
 - Holding the meeting in a larger room than normal.

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- Having a separate, larger room for the public that is video or audio linked to the room where the meeting is being held.
- Recording the entire meeting and posting the open session on the public body's website as soon as possible after the meeting.
- Clearly identify the physical location of the in the posted notice and include additional signage in the area of the meeting site.

Public Comment

- Public bodies should consider taking public comments by email or written submission and reading the comments at the public meeting.
- Commenters physically present at a meeting should practice social distancing when waiting their turn to speak.
- Any conference call or other log-in information for the public meeting should be included in the notice of the meeting.
- If using a web-based conference call or virtual meeting interface, the public body should review the terms and conditions of use for the service, especially those regarding data collection and user's privacy.

This is part of a series of our **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these challenging times. If you have any questions about this Executive Order, please contact your Miller Canfield attorney or any of the authors of this alert.

This information is based on the facts and guidance available at the time of publication, and may be subject to change.