

Illinois Open Meetings Act Amended to Allow Meetings Without A Physical Quorum

June 15, 2020

On June 12, 2020, Illinois Governor J.B. Pritzker signed into law Public Act 101-0640 which, among other matters, amends Section 7 of the Open Meetings Act to allow meetings of members of a public body subject to the Act to occur without a quorum being physically present at the meeting. The amendment provides that, subject to the Act's existing requirements as to the keeping of minutes, any open or closed meeting of the members of a public body can be held by audio or visual conference without the physical presence of a quorum of members under the following conditions:

- the Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns because of a "disaster" (as defined in the Illinois Emergency Management Agency Act), and all or part of the jurisdiction of the public body is covered by the disaster area;
- the "head of the public body" (as defined in the Freedom of Information Act) determines that an in-person meeting or a meeting conducted under this Act is not practical or prudent because of a disaster;
- all members of the body participating in the meeting, wherever their physical location, shall be verified and can hear one another and can hear all discussion and testimony;
- for open meetings, members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the disaster, including the issued disaster declaration, in which case the public body must make alternative arrangements and provide notice of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link;
- at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the disaster, including the issued disaster declaration; and
- all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the body participating in a meeting by audio or video conference under the above conditions is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Except in the event of a bona fide emergency, 48 hours' notice shall be given of a meeting to be held pursuant to these provisions. Notice shall be given to all members of the public body, shall be posted on the website of the public body, and shall also be provided to any news media who has requested notice of meetings pursuant to the Act. If the public body declares a bona fide emergency:

- Notice shall be given pursuant to the Act, and the presiding officer at the meeting shall state the nature of the emergency at the beginning of the meeting.
- The public body must comply with the verbatim recording requirements set forth in the Act.

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In addition to the requirements for the keeping of minutes under the Act, public bodies holding open meetings under these provisions must also keep a verbatim record of all such meetings in the form of an audio or video recording. Such records shall be made available to the public under, and are otherwise subject to, the provisions of the Act regarding the keeping of minutes.

Governor Pritzker's most recent disaster declaration related to public health concerns due to the Coronavirus Disease 2019 pandemic, issued May 29, 2020, expires on June 27, 2020.

If you have any questions about the amendments to the Open Meetings Act, 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.