

In Brief

March 16, 2020

GOVERNOR SUSPENDS PHYSICAL PRESENCE REQUIREMENTS UNDER THE OMA AND IMPOSES FURTHER LIMITS ON PUBLIC GATHERINGS

On March 9, 2020, Governor Pritzker declared all counties in Illinois as a disaster area in response to the COVID-19 outbreak. As the spread of COVID-19 continues to grow, the Governor issued an Executive Order today to suspend the physical presence requirements under the Open Meetings Act (OMA) and to limit the size of all public and private gatherings in Illinois, among other things. The suspension of the OMA requirements was of utmost importance to public bodies throughout the State.

Temporary Suspension of Certain OMA Requirements – Effective Until End of Disaster Proclamation

In general, Governor Pritzker encourages public bodies to postpone meetings, when possible, for the duration of the disaster proclamation. Recognizing that some meetings are necessary during this time, the Governor has suspended the requirement that a quorum of the members of a public body be physically present at a board meeting and the conditions which limit when remote participation is permitted. This means that:

- ❖ a public body may convene a properly noticed meeting with any number of members physically present, or no members physically present, as long as the total participating members constitutes a quorum; and
- ❖ No specific reason or vote to allow for remote participation is required.

When a meeting must occur, Governor Pritzker encourages public bodies to “provide video, audio and/or telephonic access to meetings to ensure that the public may monitor the meeting. Public bodies are further urged to “update their websites and social media feeds” to keep the public informed of changes to meeting schedules or format due to the COVID-19 emergency.

Public bodies are still required to:

- ❖ timely post agendas for any meeting held under the OMA;
 - ❖ include on the posted agenda the general subject matter of any final action to be taken;
 - ❖ have a quorum present (in-person or remote) in order to convene a meeting;
 - ❖ record members present/absent and by what means they attended;
 - ❖ allow an opportunity for public comment;
 - ❖ keep, approve, maintain and post minutes; and
 - ❖ comply with OMA requirements to convene in closed session.
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All of the above applies to regular, special or emergency meetings held pursuant to the OMA. For purposes of complying with the public comment requirement for a completely remote meeting, we suggest providing a call-in option and/or an option to write-in via email or text to be read during the meeting. As urged by the Governor, a public body should state clearly in the meeting agenda by what means the meeting will be held and how public comment will be handled.

Other Actions Banned by the Governor

Mirroring recent guidance from the Centers for Disease Control and Prevention ("CDC"), effective March 18, 2020, the Governor has banned all public and private gatherings of 50 or more people throughout the State, with limited exceptions. Public/private gatherings include community, civic, public leisure, sporting events with spectators, concerts, conventions and any similar events or activities. It also extends to venues such as fitness centers and health clubs, bowling alleys and theaters. However, the ban does **not** apply to "venues that provide essential goods or services such as grocery stores, hospitals, pharmacies, gas stations, banks/credit unions, and shelters."

Also, all businesses that offer food or beverages for onsite consumption, including all restaurants and bars, must suspend onsite consumption from March 16 at 9:00 p.m. through March 30, 2020.