Complying with Open Meeting Laws in Massachusetts During COVID-19

By: Walter J. St. Onge III and Natalie M. Jersak

The unprecedented effects of the coronavirus (COVID-19) pandemic has affected state and local governments in many ways, including if, or how, they can reform their standard operations in a manner that ensures the safety and wellbeing of the public, staff, and its members. One concern is ensuring compliance with open meeting laws. In Massachusetts, “public bodies” are required under Section 20 of Chapter 30A of the General Laws to hold all meetings of such public body open to the public.\(^1\) Furthermore, subsection (d) requires that at least a quorum of the public body be physically present at the meeting location, even if remote participation has been authorized in accordance with Section 20.\(^2\)

Governor Baker, on March 12th, issued an order relieving public bodies from the requirements of Section 20 as it relates to hosting meetings in public and establishing a physical quorum at the meeting location.\(^3\) Such relief, however, comes with an alternative requirement that the public body must ensure public access to its deliberations through “adequate, alternative means.” “Adequate, alternative means” are “measures that provide transparency and permit timely and effective public access to the deliberations of the public body.”\(^4\) Examples referenced by the Governor’s order include audio or video teleconferencing through telephone, internet or satellite technology that enable the public to “clearly follow the proceedings of the public body while those activities are occurring.”\(^5\)

The method chosen by the public body must also allow for active, real-time participation by members of the public whenever such participation is required under general or special law or regulation (or, with respect to cities and towns, by local ordinance or by-law). Additionally, whatever method is chosen must be freely accessible without any subscription, toll or similar charge to the public.\(^6\)

When economic hardship, despite its best efforts, prohibits a municipal public body from providing alternative means of public access where the public can follow the proceedings in real time, the public body may instead post a full and complete transcript, recording, or other comprehensive record of its proceedings on its municipal website. Such exception does not apply, however, to meetings that require allowance for active participation by members of the public as described in the paragraph above.

Ensuring continuity of government operations remains a priority across the country. Other states have taken, or will likely take, similar actions to relieve their bodies of open meeting law compliance as the virus spreads. Your regular Locke Lord contact and the authors of this article

\(^1\) MASS. GEN. LAWS ch. 30A, § 20(a)
\(^2\) Id. at §20(d).
\(^4\) Id.
\(^5\) Id.
\(^6\) Id.
would be happy to help you navigate compliance with open meeting laws as they continue to evolve based on current events.

For more information on the matters discussed in this Locke Lord QuickStudy, please contact the authors.

Walter J. St. Onge III | 617-239-0389 | walter.stonge@lockelord.com
Natalie M. Jersak | 617-239-0336 | natalie.jersak@lockelord.com

Please visit our COVID-19 Resource Center often for up-to-date information to help you stay informed of the legal issues related to COVID-19.