

COHL, STOKER & TOSKEY, P.C.  
ATTORNEYS AND COUNSELORS  
601 NORTH CAPITOL AVENUE  
LANSING, MICHIGAN 48933  
(517) 372-9000

SHAREHOLDERS  
PETER A. COHL  
DAVID G. STOKER  
BONNIE G. TOSKEY  
ROBERT D. TOWNSEND  
TIMOTHY M. PERRONE  
MATTIS D. NORDFJORD  
GORDON J. LOVE

ASSOCIATES  
COURTNEY A. GABBARA  
SARAH K. OSBURN  
CHRISTIAN K. MULLETT

OF COUNSEL  
RICHARD D McNULTY

## **IMPORTANT CLIENT UPDATE**

### **EXECUTIVE ORDER 2020-129** **OPEN MEETINGS ACT** **(rescinded and replaced EO 2020-75)**

As you are aware, Michigan Governor Gretchen Whitmer has issued a series of Executive Orders suspending rules and procedures under the Open Meetings Act (OMA) to the extent the OMA requires a meeting of a public body to be in a physical building open to the public, and to the extent the OMA requires the physical presence of members of the public body. EO 2020-75 extended the suspension of strict compliance with the OMA through June 30, 2020.

On June 18, 2020, Governor Whitmer issued EO 2020-129, which rescinds EO 2020-75, and extends the suspension of rules and procedures under the OMA through July 31, 2020.

#### **Executive Order No. 2020-129 Overview:**

EO 2020-129 retains the same previously issued conditions for holding remote meetings under the OMA.

The rules of the OMA continue to be suspended through July 31, 2020 (this date may be subject to further extension).

A meeting of a public body can be held electronically provided the following conditions are met:

- (1) The meeting can be held electronically (including, but not limited to, teleconferencing, video conferencing, and telephone dial-in options) if a means are available for both the public and the members of the public body to participate.
- (2) There must be 2-way communication so that (1) the members of the public body can hear each other, (2) the members of the public can hear the members of the public body, and each other, and the public body can hear all of the public during the public comment portion of the meeting.
- (3) The public body's use of technology for typed public comments to be submitted and read or shared with the public body and participants appears to be optional.

- (4) Members of the public body and members of the public participating electronically will be considered present at the meeting and may participate as if physically present at the meeting.
- (5) All persons who desire to participate must be permitted to participate. The time limits for public comment can still be enforced.
- (6) In addition to the meeting notice requirements of the OMA, the public body must also post advance notice of an electronic meeting on the home page of its website. The notice must include:
  - (a) an explanation of why the meeting is being held electronically;
  - (b) detailed procedures on how the public may participate electronically, including a telephone number, internet address or both; and
  - (c) an explanation of procedures by which persons with disabilities may participate.

EO 2020-129 does not mandate remote meetings, and it is likely some public entities could hold “hybrid” meetings where some members might participate in person and others electronically. If hybrid meetings are used, care should be taken to assure compliance with federal, state, and local health guidance and requirements relating to maximum numbers of persons within a specific confined area and social distancing between individuals, and the use of face coverings.

**Should you have questions, please do not hesitate to contact our Office.**

Link to EO 2020-129:

[https://content.govdelivery.com/attachments/MIEOG/2020/06/18/file\\_attachments/1477384/EO%202020-129%20Emerg%20order%20-%20OMA%20-%20re-issue.pdf](https://content.govdelivery.com/attachments/MIEOG/2020/06/18/file_attachments/1477384/EO%202020-129%20Emerg%20order%20-%20OMA%20-%20re-issue.pdf)

Cohl, Stoker & Toskey, P.C.  
601 N. Capitol Ave.  
Lansing, MI 48933  
(517) 372-9000

June 22, 2020

N:\Client\Seminars\Client Updates\COVID-19\Client Update re Executive Order 2020-129 OMA - 2020-06-22.docx