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## **IMPORTANT CLIENT UPDATE**

### **EXECUTIVE ORDER 2020-154**

#### **OPEN MEETINGS ACT**

#### **(rescinded and replaced EO 2020-75, EO 2020-129, EO 2020-132 and EO 2020-141)**

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 On June 18, 2020, Governor Whitmer issued EO 2020-129 which rescinded EO 2020-75, and extended the suspension of rules and procedures under the OMA through July 31, 2020.

On July 17, 2020, Governor Whitmer issued EO 2020-154, which rescinds EO 2020-75, EO 2020-129, EO 2020-132, and EO 2020-141, and effective immediately, extends the suspension of rules and procedures under the OMA during any state of emergency or state of disaster related to the COVID-19 pandemic, and for an additional 28 days thereafter as necessary to allow public bodies to schedule hearings and meetings.

#### **Executive Order No. 2020-154 Overview:**

EO 2020-154 retains the same previously issued conditions for holding remote meetings under the OMA.<sup>1</sup>

The rules of the OMA are suspended during any state of emergency or state of disaster that arises out of the COVID-19 pandemic, and will remain in effect for an additional 28 days thereafter as necessary to allow public bodies to schedule hearings and meetings accordingly.

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

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<sup>1</sup> EO 2020-154 also allows 1) notice of public hearings required under tax abatement statutes to be provided electronically and by newspaper; and 2) administrative agencies, such as the Michigan Employment Relations Commission and Unemployment Insurance Agency, to be hold administrative hearings by video conference or phone in place of in-person hearings.

- (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 2020-154 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 who may be located 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 2020-154](#)

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