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GOV. BAKER SUSPENDS OPEN MEETING LAW PROVISIONS IN RESPONSE TO COVID-19 OUTBREAK

In response to the COVID-19 outbreak, Governor Charlie Baker temporarily suspended certain requirements of the Massachusetts Open Meeting Law in an effort aimed at reducing the public's risk of exposure at public meetings. By way of an Executive Order issued on March 12, 2020, the Governor has temporarily relieved public bodies of their statutory obligation to conduct meetings in a place that is physically open to the public and has outlined steps for public officials to participate in meetings remotely.

We take this time to highlight some of important changes contained in the Executive Order:

- The Order suspends the requirement that meetings of municipal public bodies be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations through adequate, alternative means.
- Adequate, alternative means includes, but is not limited to, telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the public to follow the meeting in real time. These alternative means of access must be offered at no charge to the public.
- Where a municipal public body is unable to provide alternative means of public access enabling the public to watch a meeting in real time, due to economic hardship, that public body may instead, as soon as it is able following the meeting, post on the municipal website "a full and complete transcript, recording, or other comprehensive record of the proceedings."
- All members of a public body may participate in public meetings by remote or virtual means. Any person who is entitled or required to appear before the public body must be allowed to also participate remotely.
- In cases of public hearings (as opposed to public meetings) required by state law or local regulation, where the rights of the public to attend, participate, and be heard, are implicated, any "alternative means of public access" must provide the applicants and the public with the ability to participate remotely. Given this, public bodies may consider written requests for extensions of time made to applicants or licensees in instances where use of alternative means is not practical for conducting such hearings.

Statutory posting requirements of the OML remain in effect. Meetings of public bodies must still be posted at least 48 hours in advance, not counting Saturdays, Sundays and legal holidays, unless the conditions for an emergency meeting exist. Minutes must still be taken and approved.