

Municipal Alert
June 10, 2021

AS MASSACHUSETTS REOPENS, TEMPORARY RELIEF TO HOLD REMOTE PUBLIC MEETINGS MAY ARRIVE BY THE END OF THE WEEK

On May 17, 2021, Governor Baker announced that the State of Emergency in Massachusetts will end on June 15, 2021. With this announcement comes the end of the authority allowing a quorum of any public body to meet remotely, unless the Massachusetts General Court takes timely action to amend the Open Meeting Law.¹ Legislation extending this temporary authority beyond the June 15, 2021 deadline is pending in the Senate, and could be through to the Governor for signature by the end of the week.

Governor Baker issued Executive Order Number 1 (“E.O. 1”), on March 12, 2020, which suspended certain provisions of the Open Meeting Law to allow expanded remote participation and alternative access to all public meetings. E.O. 1 only remains in effect until rescinded or until the State of Emergency is terminated, whichever happens first. Although E.O. 1 was never rescinded, the long awaited end of the State of Emergency is rapidly approaching and, therefore, the legislature must make changes in the Open Meeting Law itself, to enable public bodies to continue to meet remotely, for the purposes of obtaining a quorum.

There are several short term and long term legislative solutions in the works. In the short term, cities and towns need some time to transition back to fully in-person meetings. Not everyone is yet vaccinated, not all public buildings are fully open. Additional time is required to re-organize and re-set from the impacts of the pandemic, including improving HVAC systems and making meeting rooms fully available for public use again. In recognition of these realities, Governor Baker filed S. 2452 on May 26, 2021, which would, among other things, allow an extension of the authority to conduct public meetings by remote means, until September 1, 2021. The bill states, in section 1:

Notwithstanding any provision to the contrary in chapter 30A of the General Laws or in 940 CMR 29, and notwithstanding the termination of the state of emergency concerning the novel coronavirus disease outbreak declared by the Governor on March 10, 2020, public bodies may conduct deliberations entirely by remote means in a manner consistent with the allowances of the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20,

¹ The Open Meeting Law, M.G.L. c. 30A § 20(d) currently states: “The attorney general may, by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided further, that a quorum of the body, including the chair, are present at the meeting location. The authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.” The Open Meeting Law regulations, 940 CMR section 29.10, set forth more detailed requirements for remote participation.

**Municipal Alert
June 10, 2021**

dated March 12, 2020, provided that a public body complies with all of the requirements specified in said Governor's Order.

Senator Browsberger filed a companion bill, S. 2467 which would extend the authority to allow remote public meetings until April, 2022. The Senate Ways and Means Committee took written comment only on both bills. The Senate is polling its membership, and collecting potential amendments to the two bills until Wednesday June 9. The Senate is scheduled for session on Thursday June 10, and is expected to take up these bills for a vote, and then pass it to the House. Legislation authorizing an extension of the authority to hold meetings by remote participation could be on the Governor's desk by Friday June 11, 2021.

In the long term, the General Court is evaluating a variety of bills filed in both the House and Senate to allow public bodies at the state and local level to continue to hold public meetings and achieve a quorum of a public body, through remote participation.

The Committee on State Administration and Regulatory Oversight held public hearings on these bills last week, and further hearings are scheduled. On the first day of hearings, testimony was received from over 40 people, on behalf of state and local officials, communities, and individuals. The testimony was overwhelmingly in favor of continuing remote participation public meetings. In fact, the Attorney General's office expressed support for extending the authority to allow remote meetings to continue for an additional three months.

More legislation and hearings are likely to follow, especially if the temporary extension is authorized.

.....
This Client Alert was prepared by Karis North and reviewed with Cindy Amara. If you have any questions about this issue, please contact Karis North, Cindy Amara, or the attorney responsible for your account, or call (617) 479-5000.

This alert is for informational purposes only and may be considered advertising. It does not constitute the rendering of legal, tax or professional advice or services. You should seek specific detailed legal advice prior to taking any definitive actions.

©2021 MHTL