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New Illinois Executive Order Will Help with Approval of Bond Deals: Ice Miller

Gov. Pritzker recently issued [Executive Order 02020-07](#) (Executive Order), which declared all counties in Illinois as a disaster area (Gubernatorial Disaster Proclamation). The Executive Order, among other things, suspended the requirements under the Open Meetings Act requiring or relating to remote attendance at public meetings. Ice Miller attorneys assisted with the drafting of this legislation. This Executive Order was issued to implement social distancing in response to COVID-19.

Section 6 of the Executive Order specifically suspends, for the duration of the Gubernatorial Disaster Proclamation, the Open Meetings Act requirement that public officials be physically present at public meetings. Public bodies are “encouraged” to: (1) postpone consideration of public meetings whenever possible; (2) provide video, audio, and/or telephonic access to meetings to ensure members of the public can monitor the meetings; and (3) update their websites and social media to keep the public apprised of changes to their meetings and of activities related to COVID-19.

The Executive Order does not relieve public bodies from:

- the requirement that the meetings be open to the public;
- the requirement of holding public meetings at times and places convenient to the public;
- 48-hour public notice and agenda requirements under the Open Meetings Act;
- the requirement that any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body compliance with open meeting rules adopted by the public body;
- rules of order and procedure that are in effect;
- statutory voting requirements;
- recording and keeping of minutes of the meeting.

We recommend that the agenda for any public meeting be posted at the governing body’s principal office and on its website, and we recommend that the public notice clearly state changes in schedule or format of the meeting. We also suggest that call-in or write-in capability be established for virtual meetings where members of the governing body are attending remotely and that instructions be included in the notice. The media notification requirements still apply. The electronic meeting should be held the same way that an in-person meeting would be held to the extent practicable (welcome, roll call, hearing and closure of the hearing, old business, new business, etc.).

While the Executive Order suspends public meeting requirements under the Open Meetings Act, it also implicates meetings and hearing requirements under other statutes, including those related to municipal bonds. For example, the Bond Issue Notification Act (BINA) requires that the governing body “permit persons desiring to be heard an opportunity to present written or oral testimony.” The hearing may be part of the governing body’s regularly scheduled meeting. All other applicable requirements including notice would still need to be satisfied for any BINA hearing. Similarly, for conduit bond issues, Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) hearings may be done

at such meeting or at a different location as authorized by the issuer so long as notice and other applicable federal income tax requirements are satisfied.

We recommend that each public body review its remote attendance rules to see if changes are needed to facilitate the remote participation allowed under the Governor's Order.

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