

Governor Inslee Announces Proclamations Relating to the Open Public Meetings Act Will Terminate on June 1, 2022

May 9, 2022

On April 29, 2022, Governor Inslee issued Proclamation 20-28.16, the latest in the 20-28 series of proclamations waiving and suspending certain requirements of the Washington State Open Public Meetings Act (“OPMA”) during the COVID-19 pandemic.¹ Recognizing public health experts’ belief that “as a state we have made adequate progress against COVID-19 to begin rescinding or modifying amendatory proclamations related to specific health issues,” Proclamation 20-28.16 terminates and rescinds all prior proclamations in the 20-28 series (collectively referred to as “Proclamation 20-28”), effective June 1, 2022.

At that time, the OPMA—which was itself recently amended via Engrossed Substitute House Bill 1329 (“ESHB 1329”)—will govern the conduct of public meetings without Proclamation 20-28’s modifications.² This guidance provides a brief overview of the current and forthcoming frameworks governing public meetings held subject to the OPMA.

Current Rules Governing OPMA Meetings

Currently, Proclamation 20-28 remains in effect and requires public agencies holding public meetings to: (1) offer a remote option for all meetings that provides the public with an opportunity to attend the proceedings through, at a minimum, telephonic access; and (2) provide the ability for all persons attending the meeting to hear each other at the same time.³ Along with the required remote access, public agencies may offer an in-person option and need not impose physical distancing requirements, restrictions on capacity, or face mask requirements (although agencies should remain alert to any local regulations relating to face mask requirements).⁴ Certain new requirements of the amended OPMA, including provisions relating to the conduct of remote meetings, are also in effect.⁵ For additional guidance on how to conduct a public meeting until May 31, see our previous [publication](#) on this topic and our [review](#) of ESHB 1329.

¹ Proclamation 20-28.16 is available [here](#). Proclamations 20-28, *et seq.*, are available [here](#).

² ESHB 1329 is available [here](#). Sections 5-11 became effective March 24, 2022, although they currently remain subject to Proclamation 20-28. The remaining amendments under ESHB 1329 will become effective June 9, 2022.

³ See, e.g., Proclamation 20-28.14 (December 8, 2020) (available [here](#)).

⁴ See Proclamation 20-28.14 (requiring in-person meetings to comply with “Miscellaneous Venues” guidance, which is available [here](#)); Proclamation 20-03.8 (March 11, 2022) (lifting face mask requirements in most settings) (available [here](#)).

⁵ See ESHB 1329 §§ 5-11.

Key Changes Taking Effect on June 1, 2022

Beginning on June 1, the OPMA, as amended, will govern without Proclamation 20-28's modifications. Public agencies will be required to provide a physical location for public meetings—with a notable exception: after a local or state government or agency, or the federal government, has declared an emergency, a public agency may opt to hold a remote meeting without a physical location or limit physical attendance by members of the public *if* the agency determines it cannot hold an in-person meeting with “reasonable safety” because of the emergency.⁶

Because Washington remains in a State of Emergency due to the ongoing COVID-19 pandemic,⁷ public agencies may employ this exception, but only if they determine they cannot hold a meeting with attendance in person with “reasonable safety.” For remote public meetings held under the emergency exception, the public agency must provide an option for members of the governing body to communicate verbally in real-time. For public meetings held either remotely or with limited physical attendance by the public, the public agency must also enable members of the public to listen to the proceedings in real-time, either telephonically or using an alternative means that does not require any additional cost for participation.⁸ In addition, notice of a public meeting held under the emergency exception must include instructions on how the public may access and listen to the meeting.⁹

Notwithstanding the continuing State of Emergency, public agencies that are able to hold in-person public meetings with reasonable safety should prepare to do so at a physical location. In addition to the currently-effective OPMA requirements mentioned above, beginning on June 9, additional provisions relating to remote access and public comment will take effect.¹⁰ For additional guidance on the Legislature's recent amendments to the OPMA, see our recent [publication](#) on this topic.

⁶ ESHB 1329 § 5. In addition, public agencies that held some of their regular meetings remotely prior to March 1, 2020, may continue to hold meetings remotely with no declared emergency so long as they provide an option for the public to listen in real-time in accordance with § 5.

⁷ At the outset of the COVID-19 pandemic, Governor Inslee declared a State of Emergency with the issuance of Proclamation 20-05 (February 29, 2020) (available [here](#)). That Proclamation remains in effect. See Proclamation 20-28.16 at 2. In addition, public agencies should be alert to any local emergency declarations that may be in place and could also trigger the exception.

⁸ If a public agency does not make such an option available, it may not take action at the public meeting. ESHB 1329 § 5(3).

⁹ See ESHB 1329 § 5(4).

¹⁰ See ESHB 1329 §§ 1-4, 12-15.

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