

Sunshine Law Guidance for Public Governmental Bodies During a Public Health Crisis or State of Emergency

In light of current circumstances, some public governmental bodies may not wish to have in-person meetings in order to protect the public from possible transmission of a communicable disease during a public health crisis. However, it is still necessary for government agencies to conduct public business. The Attorney General's Office has prepared information for public governmental bodies seeking guidance on complying with the Sunshine Law during these times.

The Sunshine Law provides means for public governmental bodies to conduct public meetings in alternative ways, such as via video conference, online meeting, and telephone conference. A public governmental body should always ensure that it maximizes the amount of notice given to the public before hosting any public meetings, whether in-person or via alternative means. As a best practice and if possible, public governmental bodies should take advantage of their website and social media pages to post recordings or live streams of public meetings.

Along those lines, the Attorney General's Office encourages public governmental bodies to be mindful of the nature of business discussed or decided during states of emergencies, such as public health crises. For example, it would be appropriate to continue to discuss and decide routine and essential matters. However, given the Sunshine Law's goal of maximizing governmental transparency, as a best practice it may be advisable for a public governmental body to postpone discussions and votes on higher-profile matters until the state of emergency or crisis has been resolved and the public could resume attending and participating in meetings in person, if such a postponement would not jeopardize the matter.

Meeting Notices - If a public governmental body chooses to have a meeting by telephone or other electronic means, staff will need to ensure that the meeting notice references the change from the usual method. If the meeting will be held online, § 610.020.1, RSMo, requires that the body "**post a notice of the meeting on its website in addition to its principal office.**" Section 610.020.1, RSMo, further requires that the body "**shall notify the public how to access that meeting.**" Depending on the circumstances, this may include a phone number the public can use to dial in to listen to the meeting or the web address where a video feed can be accessed.

Meeting notices will still need to be provided at least twenty-four hours in advance of the start of the meeting, exclusive of weekends and holidays. § 610.020.2, RSMo. If it is impossible or impractical to provide a meeting notice that far in advance, the body should post the meeting notice as soon as possible.

Meeting Agenda - If a meeting will be held in an online or other electronic format, the public governmental body will need to still provide a tentative meeting agenda that is "**reasonably calculated to advise the public of the matters to be considered.**" § 610.020.1, RSMo. Bodies should create and post their tentative meeting agendas in the same manner as the meeting notice.

Voice Votes – The Sunshine Law does not preclude members of a public governmental body from participating in voice-votes during online or conference call meetings. However, the Sunshine Law does require that some votes must be held by a roll call vote, and not a voice vote, as explained below.

Roll Call Votes – Generally, under § 610.015, RSMo, an elected member of a public governmental body can only participate in a roll call vote if they are physically present or participating via videoconferencing. This also means that a quorum of the public governmental body must be present in-person or via videoconferencing for a roll call vote to be held. In addition, if a closed meeting is held, all votes in closed session must be held by a roll call vote.

However, § 610.015, RSMo, also includes special provisions for emergency situations, which may include a public health crisis or state of emergency:

When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

Emergency Public Meetings – The Sunshine Law provides for public governmental bodies to have a meeting on less than twenty-four hours of notice, at a place that is not reasonably accessible to the public, or at a time that reasonably convenient to the public. In these events, § 610.020.4, RSMo, requires that **“the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.”** In addition, § 610.020.2, RSMo, requires that public notice of the meeting be given as soon as practicable.

The Missouri Sunshine Law is meant to be liberally construed, and the exceptions to openness are to be interpreted as strictly as possible in order to promote openness. Emergency meetings would be considered an exception to openness and should only be held when necessary.

A public governmental body should also refer to provisions its charter, bylaws, or ordinances that address governmental transparency. These documents may contain additional procedures that complement the Sunshine Law.

We hope this information is helpful. If you have any questions or concerns please feel free to visit our website at www.ago.mo.gov/missouri-law/sunshine-law or contact our Director of Sunshine Law Compliance, Ms. Casey Lawrence, at 573-751-8905.