

MEMORANDUM

TO: All Retirement Boards

FROM: John W. Parsons, Esq., Executive Director

RE: Follow Up: Certain Coronavirus Emergency Measures Extended

DATE: June 21, 2021

On June 8, 2021, PERAC issued Memorandum # 16 of 2021, regarding the end of the State of Emergency, and other orders and protocols which had been in effect in the Commonwealth regarding dealing with the coronavirus issue since March of 2020.

On June 16, 2021, Governor Charlie Baker signed Chapter 20 of the Acts of 2021. Passed with an emergency preamble, this has now become law. Thus, we are updating our guidance in regard to two portions of Memo #16 of 2021.

Remote Participation in Open Meetings

Section 20 of this Act allows for wholly remote meetings up to and including April 1, 2022, in the same fashion as under the pandemic executive order waiver. That is to say, a public body may allow remote participation by all members in any meeting of the public body and a quorum of the public body and the chair shall not be required to be at a specified meeting location so long as public access is provided.

If a public body chooses to meet virtually and not in a certain public location, “the public body shall ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means of public access.” The law specifically provides for “telephone, internet, satellite-enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.”



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The law states that “adequate, alternative means” need only be provided if a public body is not conducting its meeting in a public place that is open and physically accessible to the public. PERAC continues to recommend, however, that retirement boards choosing and able to meet in a public place still offer “adequate, alternative access” to allow members of the public to participate remotely.

We have checked with the Attorney General’s Office, and that office has informed us that if a public body decides to meet in person and does not provide for alternative means of public access, then the public body must have a physical quorum present.

Finally, Section 20(f) addresses the fact that the Governor’s Emergency Order of March 12, 2020 expired on June 15, 2021, by providing “if this section does not take effect until after June 15, 2021, a public body may provide for remote meetings as specified in this action and any action taken thereof should be ratified, validated and confirmed as if this section had been in place” on June 15, 2021.

Annual Affidavits

Please note that the emergency law permitting virtual notarization of documents in Massachusetts was set to expire three business days following the termination of the State of Emergency on June 15, 2021. However, the law permitting virtual notarizations has been extended until December 15, 2021 by Section 7 of the Act. Therefore, virtual notarizations for the Annual Affidavits may be accepted up to and including that date.

Conclusion

We will continue to update retirement boards as gubernatorial and legislative changes occur in regard to the coronavirus situation. If you have any questions about this, please contact General Counsel Judith Corrigan at (617) 591-8904 or at jacorrigan@per.state.ma.us.