

'Public' meetings may be going electronic, but you still have access

So much has changed in the last month for journalists in the state. No need to rehash the virus issues ... all of you know too well. But what happened rather suddenly for many of you was that access to many public meetings was shut down, nearly overnight.

For starters, House Bill 2725, set for hearing on March 16, would have made significant changes to a number of Sunshine Law details, including incorporating into the law the provisions made by internal rule to close records of individual legislators which came after passage of the Clean Missouri constitutional amendment.

Over the prior weekend, it changed from a bill generating a lot of public attention, to a bill that had one primary purpose – to eliminate the need for public bodies to allow members of the public to attend public meetings. The coronavirus had struck. Allowing large groups into a meeting of a public body was simply too risky. It was necessary for government to limit the potential for exposure for all.

All the amendments contained in the original HB 2725 were stripped from the bill and it became a vehicle for a new exception #25 to Section 610.021:

(25) During the period that an emergency exists or continues, public access to meetings of public governmental bodies may be restricted in the event of an outbreak of contagious illness resulting in the governor or general assembly declaring a state of emergency under the provisions of section 44.100. Meetings restricted

under the provisions of this subdivision shall be live streamed online and accessible to the public if reasonably possible. If not, such meetings shall be video and audio recorded and made accessible to the public online within twenty-four hours after such meeting. Members of the public shall be authorized to submit written testimony to the public governmental body, which shall be presented at such meeting, made a part of any official record, and made accessible to the public

online within forty-eight hours after such meeting. Bona fide credentialed members of the press shall be allowed to attend any meeting closed under this subdivision.

Clearly, the important part of this additional exception was the closure to the public of formerly-open meetings in times of contagious illness emergencies. But, this bill did not pass prior to the legislative “spring break” week. And with the likelihood that the Missouri legislature won’t be going back into

session within the next few weeks, if at all before its termination date, more and more public bodies in the state will be resorting to holding solely electronic meetings. So put these notes in a handy place.

Section 610.010 (5) includes in the definition of a “public meeting” one that is conducted “by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board.”

Section 610.015 allows a body

of elected members (but not the legislature) to take any roll call vote both of members present and of members who are participating by videoconferencing.

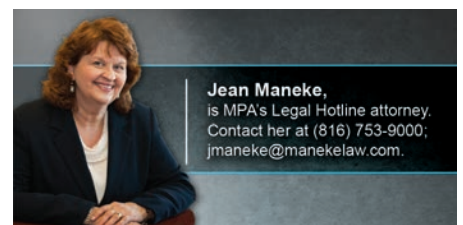
If it is necessary to take votes by roll call in an emergency meeting, if a quorum is physically present and fewer than a quorum participating by telephone, facsimile, internet, or other voice or electronic means, the body needs to put the reason for the emergency in the minutes (just like when an emergency meeting is held without proper notice). Under those circumstances, all members may vote whether or not attending in person.

Section 610.020 says if a meeting is to be held by telephone or other electronic means, the notice needs to indicate the “mode” of the meeting and “the designated location where the public may observe and attend the meeting.” Given that the mode is likely to be a video meeting, the public body is required to “post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting.”

It will be a challenge for some less-sophisticated public bodies to meet these requirements, but tools like “Facebook meetings” are becoming commonplace, so the technology is there. House Bill 2725 did mandate that public bodies allow the media to attend in person. If a member of the media is having problems getting physical access, I’d mention that to the body.

One final note: The Attorney General’s website under “News and Updates” an announcement giving public bodies guidance in responding to open records requests. It’s worth a read.

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