

## Virtual Meeting Law

On April 16, the Senate and House passed HB1082 (Act 2 of 2020), amending Ark. Code Ann. § 25-19-106, and allowing public entities to assemble, gather, meet and conduct open public meetings through electronic means. City council meetings and other public meetings traditionally held in person can now be held by telephone, video conference or video broadcast.

There is no requirement that a member of the public or a member of the city or town government be physically present at the meeting. However, if a city chooses to conduct an open public meeting by telephone, video conference or video broadcast, then the public must have access and be able to attend the public meeting using electronic means. The public must be given notice of the method the public may use to attend the meeting, and that notice must be published with the notice of the open public meeting.

Public meetings must be recorded in the format which it is conducted, including without limitation:

1. Sound-only recording;
2. A video recording with sound and picture; or
3. A digital or analog broadcast capable of being recorded.

Records of an open public meeting held under this subsection shall be maintained for one (1) year from the date of the open public meeting.

There is one thing to note for cities of the second class and incorporated towns. Under Ark. Code Ann. § 25-19-106(d)(5), amended during the 2019 Legislative Session, cities of the second class and incorporated towns were exempted from recording public meetings until July 1, 2020. However, all cities and towns that conduct a virtual meeting under Act 2 of 2020 must record that meeting regardless if it occurs before July 1, 2020.

The ability to conduct virtual meeting as described in this legislation will expire when the Governor declares the disaster related to COVID-19 has ended or on December 31, 2020, whichever is sooner.

The full language of the bill is on the following pages.

SECTION 42. SPECIAL LANGUAGE – CODE AMENDMENT. Arkansas Code § 25-19-106, concerning open public meetings under the Freedom of Information Act of 1967, is amended to add an additional subsection to read as follows:

(e)(1) If the Governor declares a disaster emergency under the Arkansas Emergency Services Act of 1973, § 12-75-101 et. seq., a public entity may assemble, gather, meet, and conduct an open public meeting through electronic means, including without limitation by:

(A) Telephone;

(B) Video conference; or

(C) Video broadcast.

(2) If an open public meeting is held under subdivision (e)(1) of this section:

(A) The public may attend the open public meeting using electronic means; and

(B) Notice of the method the public may attend the open public meeting shall be published with the notice of the open public meeting.

(3) Physical presence of the public or of an individual member of the public entity at the open public meeting is not required under this subsection.

(4) The open public meeting shall be recorded in the format in which it is conducted, including without limitation:

(A) A sound-only recording;

(B) A video recording with sound and picture; or

(C) A digital or analog broadcast capable of being recorded.

(5) A public entity shall maintain the records of an open public meeting held under this subsection for a minimum of one (1) year from the date of the open public meeting.

SECTION 43. DO NOT CODIFY. - TEMPORARY LANGUAGE AND SUSPENSION OF CURRENT LAW. (a) Section 42 of this act is cumulative of existing laws and suspends, but does not repeal, any law in conflict with Section 74 of this act.

(b)(1) Except as provided in subdivision (b)(2) of this section, Section 42 of this act is temporary and expires on the date that the Governor determines that the emergency under Arkansas Code §§ 12-75-101 et seq, and § 20-7-110 in response to an outbreak of coronavirus disease 2019 (COVID-19) has ended.

(2) If the Governor has not determined by December 31, 2020, that the emergency under Arkansas Code §§ 12-75-101 et seq, and § 20-7-110 in

response to an outbreak of coronavirus disease 2019 (COVID-19) has ended, Section 42 of this act shall expire on December 31, 2020.

(c) On the expiration of Section 42, the provisions of law suspended by Section 42 of this act are in full force and effect.

(d) The expiration of Section 42 of this act does not affect rights acquired under this act or affect suits then pending."