

Pa's Act 15 Guides Public Bodies Through the Pandemic

Covid-19 has left public bodies with a dilemma: How can they keep the public at a safe distance, while giving them the access that is their legal right?

Pennsylvania's Act 15 bridges that divide, by allowing municipalities, planning commissions like the LVPC and other public organizations to safely conduct business, while keeping the public involved during the Covid-19 crisis.

The law enables municipalities to conduct public meetings electronically, eliminates the need for in-person contact, and pauses review and filing time limits that many municipalities have struggled to meet with their doors closed to the public and so many employees furloughed or working from home.

"This Covid-19 pandemic is certainly one of the largest disruptors of our time," said LVPC Becky Bradley in opening a webinar on the new law. "We're here today to talk about the unprecedented legislative response to local government and development."

The webinar, conducted by the LVPC and Fitzpatrick, Lentz & Bubba (FLB) law firm, showed just how difficult local municipalities and public organizations were finding it to comply with laws and deadlines that in many cases were based on in-person contact and workplaces being open.

More than 130 private and public community, planning and development leaders joined into the interactive webinar to get a crash course on Act 15, which was overwhelmingly passed by both chambers of the legislature and signed by Governor Tom Wolf, April 20.

The 70-minute program, conducted by Bradley and FLB Real Estate and Land Use Attorney Christopher McLean, included dozens of questions posed through the chat function.

The law covers many topics, including authorizing a study on the impact of Covid-19, allowing remote notary work and allowing taxing districts to waive late fees on tax payments. However, the webinar focused on the part of the law that enables local governments to conduct virtual public meetings and pauses deadlines for reviewing things like development plans and permit applications.

A full text of the law is at <http://tiny.cc/SB841>. The new section covered in the webinar begins on page 56.

Key points of Act 15 include:

- **Remote Public Meetings** -- Enables local and county governments, boards and commissions including the LVPC to conduct business and public meetings electronically, while allowing them to prohibit in-person visits. A quorum can be established by telecommunications. Previously, public bodies could not deny in-person visitors, even if they exhibited symptoms of Covid-19.
- **Electronic Voting** -- Public board members can vote electronically. While some communities are authorized by the state to vote electronically, others are not, depending the type of borough, township or city government they use, therefore some could not comply with Sunshine Laws and Governor Tom Wolf's stay-at-home orders.
- **Public Notice** – Public notice of meetings and business must be done in an advertisement online or in a newspaper. Minutes of those minutes must be posted within 20 days.
- **Public Participation** -- People are permitted to participate by any device that allows audio communications or in writing, including by doing so after the meeting is over.
- **Development Deadlines Paused** – The legal deadlines for reviewing applications, plans, submissions, appeals or curative amendments are suspended until May 20, retroactive back to the day of Wolf's Disaster Declaration on March 6. In essence, that retroactively exonerates public bodies that could not meet in person, but were required to under different state laws. The public body can grant a request by builders, developers or applicants to proceed during the pandemic, but they're not obligated to do so. This part of the law expires May 20, meaning public bodies will again have to begin adhering to strict deadlines, whether or not their buildings are open and staffs back to work.

"If we get to May 21 and a disaster declaration is still in place, we'll have a situation where the clocks all start ticking again," McLean said. "Subsequent legislation may be needed."

- **New Rules Are Temporary** – The rules are limited to the Covid-19 crisis. The law expires when the disaster declaration is lifted.

The law change may be temporary, but the impacts of Covid-19 on public business almost certainly won't be. During a lengthy question and answer portion of the webinar, in addition of dozens of questions regarding the nuances of the law, one participant wondered what happens when the law changes are gone.

“If we’re still concerned about a contagion after the disaster declaration is lifted, what should be do?” the participant asked in the chat. “If there’s pressure to open things up early, we may have local government officials who are not comfortable attending live meetings [because of the health risks to their constituents.]”

“That’s an excellent point,” Bradley said. “Even if we reopen the meetings, I think people are going to be hesitant to attend. That’s a larger issue. I’d encourage local government officials on [the webinar] today to bring that up to your state legislators.”

It could very well change the way public meetings are conducted, McLean said.

“We might see public meetings having to shift to larger venues so that social distancing can take place, regardless of the size of the meeting,” McLean said. “That may be the only way, unless there’s a change to allow a more broad virtual meeting platform moving forward.”

If that’s the fix, it won’t be easy, Bradley said.

“That’s going to be a challenge in the Lehigh Valley. We don’t have a lot of large assembly spaces that don’t have fees associated with them or that you in some cases have to book a year in advance,” Bradley said. “This is going to be tricky – whatever this new world we find ourselves in plays out to be.”

Links to the full webinar and PowerPoint presentation can be found at <https://lvpc.org/data-lv-health.html>