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## Memorandum

Date: September 1, 2020

To: Tennessee Local Government Officials, Leaders, and Legal Representatives

From: Office of the Tennessee Comptroller of the Treasury

Subject: Guidance for Electronic Meetings Pursuant to Executive Order No 60

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On August 28, 2020, Governor Bill Lee signed Executive Order No. 60, which allows members of governing bodies subject to the requirements of the Tennessee Open Meetings Act (“TOMA”) to meet electronically in accordance with Executive Order No. 16 through September 30, 2020.<sup>1</sup> However, for meetings held on or after October 1, 2020, Executive Order No. 60 imposes new requirements for governing bodies that wish to continue to allow their members to participate in meetings by electronic means. The new provisions of Executive Order No. 60 expire on October 28, 2020, unless further action is taken by the Governor.

As with Executive Order No. 16, Executive Order No. 60 applies to all governing bodies subject to the requirements of TOMA and allows members to participate by electronic means. A governing body seeking to conduct meetings electronically in accordance with the new provisions of Executive Order No. 60 must adhere to the following requirements:

1. The members of the governing body must make a determination at the outset of the meeting, by vote or otherwise, that conducting the meeting by electronic means is necessary to protect the public health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak.
2. The electronic meeting must be open and accessible to the public by providing real-time, live audio or video access to the public.<sup>2</sup> Such access may be provided through a call-in number if the meeting is by phone or through other online mediums such as Skype, Zoom, Facebook Live, or other available products and services that provide for live access. Please see the attached Virtual Meeting Guidelines for more information on

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<sup>1</sup> Our office previously issued guidance for governing bodies seeking to conduct meetings electronically in accordance with Executive Order No. 16 on March 20, 2020. That guidance is available on the Comptroller’s website at the following [link](#).

<sup>2</sup> For contested case hearings being held pursuant to the Uniform Administrative Procedures Act, this requirement may be satisfied through adherence with Tenn. Code Ann. § 4-5-312(d).

suggested platforms a governing body may use to provide live public access to electronic meetings. Each governing body should consider its specific needs and resources and consult with its own information technology experts when determining which electronic platform is best for its meetings.

3. A clear audio or video recording of the meeting must be made available to the public as soon as practicable following the meeting, and in no event more than two (2) business days after the meeting.
4. Notice of the meeting must include a statement that members of the governing body will be allowed to participate by electronic means and contain information regarding how the public can obtain live real-time audio or video access to the meeting. The Governor's office also strongly urges governing bodies conducting meetings by electronic means to provide an agenda for the meeting in the public notice.
5. Each member participating by electronic means must be able to hear other members simultaneously and speak to each other during the meeting; the meeting must be audible to the public at the physical location specified in the notice of the meeting; any member participating by electronic means must identify the persons present in the location from which the member is participating; and members of governing bodies, staff, and others participating in an electronic meeting being held by audio means only must identify themselves in a manner that allows the public listening to the meeting to ascertain the identity of the person speaking.
6. Any documents to be discussed at the meeting must be provided to members participating electronically prior to the meeting, to the extent doing so is practicable. The governing body should also consider making such documents publicly available prior to the meeting.
7. All votes must be by roll call vote.

If a governing body has local requirements permitting public comment during public meetings, Executive Order No. 60 provides that a governing body may comply with such requirements during an electronic meeting by allowing timely and appropriately submitted written public comments to be read into the record by a member or staff of the governing body during the meeting of the governing body.

In addition to the notice requirements set forth above, we recommend that notice of the meeting still include the time, place, and date of the meeting, although there may be limited public access to the physical location of the meeting. The notice should also indicate if public access to a physical location will be limited in order to protect public health, safety, and welfare in light of COVID-19.

Please also note that except as otherwise specifically provided in Executive Order No. 60, the order does not in any way limit quorum, meeting notice, meeting minute, or voting requirements under current law.



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## VIRTUAL MEETING GUIDELINES

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The keys to success for any virtual public meeting include having a clear understanding of the platform you are using and advance planning.

### **Picking the Right Platform**

Many options are on the market for conducting remote meetings. Some of these platforms are more familiar to a general audience – like Facebook Live and YouTube – but there are others that may give you capabilities such as seeing the participants, collaborating on documents, screen sharing, and recording the meeting. Some platforms offer a free option and others charge a monthly fee.

### **Possible Options:**

- Facebook Live
- YouTube
- FreeConferenceCall.com
- Microsoft Teams
- SLACK
- Periscope
- Discord
- Livestream
- Zoom

### **Planning the Meeting**

The most important factor in having a successful virtual meeting is to have a clear meeting agenda and make sure the people involved are ready to present. It is also helpful to post or share any meeting materials beforehand, so participants are prepared.

Make sure to test your selected platform before the meeting to make sure you're familiar with how the application functions and that it is working properly.

### **Etiquette for Virtual Meetings**

- Introduce everyone at the beginning of the meeting.
- Make sure you designate when questions will be accepted (during or at the end of a presentation).
- Do not interrupt people while they are speaking.
- Mute your phone if you are not speaking.
- Ask people to silence cell phones.
- Make sure to eliminate as much background noise as possible.
- Common courtesy is key to a successful meeting.

### **Ending the Meeting**

- Make sure all deliverables and next steps are fully communicated.
  - Assign any open items or tasks to individuals or groups.
  - Declare when information is due.
  - Provide information for the next meeting.
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