

Ohio elections, taxation, open meetings, water utilities and more: Public entities affected by sweeping state COVID-19 response



Kevin Butler, Michael W. Wise, Teresa Metcalf Beasley | Friday, March 27, 2020

When Ohio Governor Mike DeWine signs [House Bill 159](#) into law, as he is expected to do on March 27, 2020, Ohio's public entities must quickly prepare for important measures that provide governments and their constituents relief from the COVID-19 epidemic.

The bill was introduced in 2019 but was amended to serve as omnibus state legislation meant to respond to the coronavirus outbreak. Among the many [amendments](#) related to the epidemic, the following items should be of particular concern to public entities in Ohio:

- **Income tax:** The bill extends the state's income tax filing deadline to July 15, bringing Ohio into alignment with the newly extended federal filing deadline. Because local income tax codes by statute follow the state deadline, local governments should prepare for delayed returns and remunerations. The bill also waives interest payments, pushes the dates for estimated tax payments and extends net-profit tax filing deadlines, which ordinarily fall on April 15. Finally, the bill provides that employees working from home due to the COVID-19 outbreak are treated as working from their principal place of employment (rather than their residence city) for employer income tax withholding purposes.
- **Remote meetings:** The law responds to one of the most pressing concerns of public bodies during the coronavirus epidemic – that is, how to meet and vote on public business safely, both in a spirit of compliance with the Director of Health's March 23 [stay-at-home order](#) and in keeping with the state

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Open Meetings Act. Under the new law, public voting bodies may now meet, deliberate and vote by phone conference or videoconference during the outbreak, provided the following requirements are met:

- The public must be notified of the remote meeting at least 24 hours in advance.
- The public must be given live access to the audio or video of the meeting, including live-streaming, local radio, live television or cable broadcasts or a dial-in teleconference number.
- The public must at least be able to hear the members of the public body discussing and voting on matters of public business.
- The public body must be able via electronic means to “converse with witnesses” and receive documents and evidence.
- **Water utilities:** The law prohibits all public water systems from disconnecting customers because of nonpayment of fees and charges during the COVID-19 outbreak. It also requires the water systems to restore service to any customer whose service had been disconnected as a result of nonpayment of fees and charges, and it obligates water utilities to waive fees for connecting or reconnecting to the water system.
- **Primary election:** The law establishes a new deadline of April 28 as the date by which votes cast by mail for the March 17 statewide primary election may be postmarked. Because the law explicitly overrides the Secretary of State’s earlier directive establishing June 2 as the new primary date, there will be no in-person voting on June 2. Instead, March 17 is restored as the primary date, and all additional votes for that election must be cast by mail and mailed by April 28. The Secretary of State has established an easy link for requesting absentee ballots [here](#).
- **Unemployment compensation:** The law expands unemployment compensation to employees who are either unemployed or unable to return to work because of a quarantine or stay-at-home order issued by state or local health officials. The law eliminates the usual one-week waiting period following unemployment before which benefits may be issued, and it does not require employees affected by the outbreak to actively seek work in order to qualify for benefits. Of particular note to public employers is the provision in the law specifically excepting them (as “reimbursing employers”) from the state’s mutualized unemployment taxation account; the effect of this exception would appear to place the full burden of their employees’ unemployment claims on public employers.
- **Local licenses and permits:** The law extends the effectiveness of a state or local license, or any action required to obtain a license, during the COVID-19 crisis. The term “license” is broadly defined as “any license, permit, certificate, commission, charter, registration, card, or other similar authority that is issued or conferred by a state agency, a political subdivision of this state, or an official of a political subdivision of this state.” This will affect not only any state licensure that a local public entity is obligated to maintain (such as building official and wastewater operator certifications), but also such things as ordinary building permit deadlines imposed by municipalities. The extension provided for is the earlier of 90 days after the coronavirus emergency is abated or December 1, 2020.
- **Statutes of limitations:** Of particular note to those litigating on behalf of public entities, whether in criminal, civil or administrative matters, is the law’s extension of any statutes of limitations that would have expired between March 9 and July 30, 2020. Any such limitations now extend to the date the coronavirus emergency ends or on July 30, whichever is sooner. The extension applies not only to criminal and civil statutes of limitations but also those related to administrative actions, indictments, speedy trial requirements, warrant deadlines, and discovery and service of process.

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- **State-funded public works projects:** The law permits extensions of any local construction projects supported by the Ohio Public Works Commission (except those that cannot be extended under federal law), and also the waiver of any penalties or late fees on loans or permits issued by the Ohio Water Development Authority or Ohio Environmental Protection Agency.

The bill becomes effective immediately on Gov. DeWine's signature. Unless otherwise noted, all provisions identified above remain in effect until the end of the state of emergency or until December 1, 2020, whichever is earlier.

For questions or assistance, contact an attorney listed below.



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