2020 MAR 16 PM 5:34
SECRETARY OF STATE
PUBLIC INFORMATION
CENTER

State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-05

March 16, 2020

THIRD SUPPLEMENTAL EMERGENCY DECLARATION –
PUBLIC MEETINGS AND PUBLIC RECORDS REQUESTS

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by COVID-19;

WHEREAS, both the Federal Centers for Disease Control and Prevention and the Rhode Island Department of Health have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19;

WHEREAS, as a result of this guidance, many public and private employees are being asked to work remotely;

WHEREAS, many important functions of state and local government are executed in meetings of "public bodies," as that term is defined in the Open Meetings Act, Rhode Island General Laws § 42-6-1 et seq.;

WHEREAS, according to the public policy articulated in the Open Meetings Act, Rhode Island General Laws § 42-46-1, "[i]t is essential to the maintenance of a democratic society that

public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy";

WHEREAS, the Open Meetings Act does not allow public bodies or members of public bodies to convene by telephone or other electronic means, except for in very limited circumstances, as defined in Rhode Island General Laws § 42-46-5(b);

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of public bodies;

WHEREAS, the Rhode Island Access to Public Records Act, R.I. Gen. Laws § 38-2-1, et seq., protects the public's right to access public records within statutory timeframes;

WHEREAS, Rhode Island General Laws § 30-15-9(e)(1) permits the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency; and

WHEREAS, Rhode Island General Laws § 30-15-7(1) authorizes the Governor to issue executive orders that have the force and effect of law.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

Open Meetings

1. Public bodies conducting meetings, as those terms are defined by the Open Meetings Act are hereby relieved from the prohibitions regarding use of telephonic or electronic communication to conduct meetings, contained in Rhode Island General Laws § 42-46-5(b), provided that the public body is meeting for an essential purpose and makes provisions to ensure public access to the meeting of the public body for members of the public through adequate, alternative means.

    a. An essential purpose is either that which is necessary for continued government operations or to ensure compliance with statutory or regulatory deadlines.

    b. Adequate alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of

the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.

c. Where allowance for active, real-time participation by members of the public is a specific requirement of a state or local law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

d. A public body that for reasons of economic hardship or despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the public body as those activities are occurring in real time may instead post on its website a full and complete transcript, recording, or other comprehensive records of the proceedings as soon as practicable upon conclusion of the proceedings. However, this paragraph shall not apply to proceedings that are conducted pursuant to state or local laws that require allowance for active participation by members of the public.

e. A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

2. A public body that elects to conduct its proceedings under the relief provided in section (1) shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely.

3. All other provisions of the Open Meetings Act shall remain unchanged and fully applicable to the activities of public bodies.

Public Records

4. The statutory timeframes within which to respond to an Access to Public Records Act request contained in Rhode Island General Laws § 38-2-3 and § 38-2-7 are hereby suspended for all pending and new public records requests. Any agency or public body as defined by the Access to Public Records Act may extend the timeline for responding to a records request by an additional 20 business day, further to the extension provided in Rhode Island General Laws § 38-2-3(e), if the agency or public body notifies the requestor in writing before the regular statutory deadline for the agency's or public body's response and states that the additional time is necessary for reasons related to the current COVID-19 emergency. Any such extension of time must be related to the current COVID-19 emergency.

5. The requirements in Rhode Island General Laws § 38-2-3 providing that an agency or a public body permit inspection of records and produce records in "any and all media" in which they are capable of being provided is hereby suspended for all pending and new public records requests. It shall be sufficient for an agency or public body to provide such records electronically. Agencies and public bodies may continue to permit inspection or provide public records in other media, at their discretion.

6. The timeframes regarding administrative appeals of agency or public body decisions contained in Rhode Island General Laws § 38-2-8 are hereby suspended for all pending and new administrative appeals. Any agency or public body as defined by the Access to Public Records Act may extend the timeline within which its chief administrative officer may review his or her subordinate's determination and issue a decision regarding an administrative appeal by an additional 10 business days. Any such extension of time must be related to the current COVID-19 emergency and the agency or public body must inform the requestor in writing within the regular 10 business day timeframe.

7. All other provisions of the Access to Public Records Act shall remain unchanged and applicable to agencies and public bodies.

This Order shall take effect immediately and remain in full force and effect until April 15, 2020 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

Gina M. Raimondo
Governor