

Changes to Pennsylvania Sunshine Act

On June 30, 2021, Pennsylvania Governor Tom Wolf signed into law Act 65 of 2021, which amends Pennsylvania's Sunshine Act (65 Pa. C.S. § 701 *et seq.*) to require "public agencies," including municipalities and school districts, to publish a meeting agenda detailing issues expected to be deliberated and voted on at the meeting, at least 24 hours prior to the public meeting. These new restrictions do not make last-minute changes to the agenda impossible, but do require additional steps.

The meeting agenda must be posted at both the location of the meeting and the principal office of the public agency. Additionally, the public agency will be required to provide copies of the agenda to individuals in attendance at the meeting. If the public agency has a publicly accessible internet website, the public agency must post the agenda, which includes a listing of each matter of the public agency's business that will be or may be the subject of deliberation or official action at the meeting, on the website no later than 24 hours in advance of the time of the convening of the meeting.

Subject to the exceptions below, a public agency may not take official action on a matter unless it was included on the meeting agenda. Exceptions to the agenda requirement include:

- For emergency business: A public agency may take official action at a meeting on a matter of agency business relating to a real or potential emergency involving "clear and present danger to life or property" regardless of whether public notice was given for the meeting.
- For business arising within 24-hours prior to the meeting: A public agency may take official action on a matter of agency business that is not listed on the meeting agenda if (i) the matter arises or is brought to the attention of the public agency within the 24-hour period prior to the meeting and (ii) the matter is de minimis in nature and does not involve expenditure of funds or entering into a contract or agreement by the public agency.
- For business arising during the meeting: If a resident or taxpayer brings a matter of agency business that is not listed on the meeting agenda to the attention of the public agency, the public agency may take official action to refer the matter to staff, if applicable, for the purpose of researching the matter for inclusion on the agenda of a future meeting, or, if the matter is de minimis in nature and does not involve the expenditure of funds or entering into a contract or agreement, the public agency may take official action on the matter.

Additionally, a public agency may, upon majority vote during a meeting, add a matter of agency business to the agenda. The reasons for the changes to the agenda should be announced at the meeting before any vote is conducted. Subsequently, the public agency may take official action on the matter added to the agenda. The

minutes of the meeting must reflect the substance of the matter added, the reason for the additional agenda item, and the vote on the additional agenda item. Following the meeting (no later than the first business day after the meeting), the public agency shall post the amended agenda on its website and at the public agency's principal office.

The aforementioned amendments to the Sunshine Act do not apply to a conference sessions, working sessions or executive sessions that are not required to be open meetings under the Sunshine Act. However, the changes to the law do apply to committee meetings.

The new provisions take effect on August 29, 2021 and public agencies, including municipalities and school districts, should be prepared to implement these changes in time for their September, 2021 public meetings.