



Coronavirus Disease 2019 (COVID-19) FAQ for Municipal Government

April 17, 2020

With the COVID-19 crisis evolving rapidly, GMA has created this Frequently Asked Questions document for our members. This FAQ contains analysis of COVID-19 related questions GMA staff have received as of the date above, or as of the date set forth next to the question (for updates). *Local government officials are strongly encouraged to review this FAQ with the local government attorney, involve the local government attorney when developing and communicating responses, and obtain local government attorney review of any official actions related to this crisis. The information contained in this FAQ should not be considered or construed as legal advice.*

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Q1: Whom should our constituents call if they believe they have been exposed to COVID-19 or are experiencing the symptoms of COVID-19?

A1: The State of Georgia, through Governor Kemp, has created a [COVID-19 hotline](#) for anyone who believes they are experiencing the symptoms of the virus or that they have been exposed to the virus. The COVID-19 hotline page of the Governor’s website urges such individuals to “please contact your primary care doctor, an urgent care clinic, or your local federally qualified healthcare center. Please do not show up unannounced at an emergency room or health care facility.” **The hotline number is (844) 442-2681.**

Q2: How dangerous is COVID-19? Why should local government officials consider taking immediate action?

A2: COVID-19 is very dangerous. According to the Center for Disease Control, the World Health Organization, and public health scientists who have observed COVID-19 in different settings worldwide, COVID-19 is significantly more dangerous than the flu, because there is no vaccine or cure for the disease – only treatment to manage symptoms. Due to the increased risk of death and permanent lung damage, [CDC and President Trump recommend that all](#) older adults and individuals with medical conditions “stay at home and away from other people.” While many individuals have few or no symptoms, COVID-19 often requires treatment in intensive care units and prolonged use of ventilators to help patients breathe. While COVID-19 is most deadly for older individuals, a [CDC analysis](#) released March 18, 2020 shows that 38% of those hospitalized with COVID-19 were under age 55.

Deaths from COVID-19 are rising rapidly in Georgia. Governor Kemp announced Georgia’s first case of the Coronavirus on March 3, 2020, and the first death in Georgia on March 12, 2020. As of Monday afternoon, April 6, 2020, there were 7,314 confirmed cases in Georgia and 229 deaths. On Thursday evening, April 16, 2020, the number of total confirmed cases had risen to 16,368, and the number of deaths had increased to 617. The Georgia Department of Public Health (DPH) has a [daily status tracker](#) for the number of cases present in Georgia, along with the number of deaths. It is currently being updated twice, daily at noon and at 7 p.m.

It is also important to note that this is not just a threat to urban areas. Rural communities are also being affected. This can be seen from the “COVID-19 Confirmed Case Rate per 100,000 persons by County” map which is available on the [DPH website](#).

The danger of COVID-19 increases as it spreads, because treatment of COVID-19 overwhelms hospital resources. Since treatment requires intensive treatment in a hospital setting and use of ventilators, COVID-19 is most dangerous in areas with limited access to hospitals and in areas served by hospitals that do not have enough trained staff, ventilators, and Personal Protective Equipment (PPE) to protect staff from infection (Under-Equipped Hospitals). Georgians living in areas served by Under-Equipped Hospitals have a greater chance of dying from COVID-19 because they will not be able to receive the treatment required to sustain life. Moreover, Georgians living in areas served by Under-Equipped Hospitals experiencing a surge of COVID-19 patients will not have enough hospital beds and staff to respond properly to regular emergencies, such as heart attacks and strokes.

Andy Miller of Georgia Health News [reported on March 19](#) “Kemp acknowledged looming supply shortages at certain hospitals in Georgia and said the state is working to secure more coronavirus tests and medical supplies from the national stockpile.” “At the national level, the supply crunch continues. There are dwindling supplies of N95 respirators, isolation gowns, isolation masks, surgical masks, eye protection equipment, intensive care unit equipment and diagnostic testing supplies in areas that had the first community outbreaks, said the American Hospital Association, the American Medical Association and American Nurses Association in a Thursday letter to Congress, asking for more financial help.”

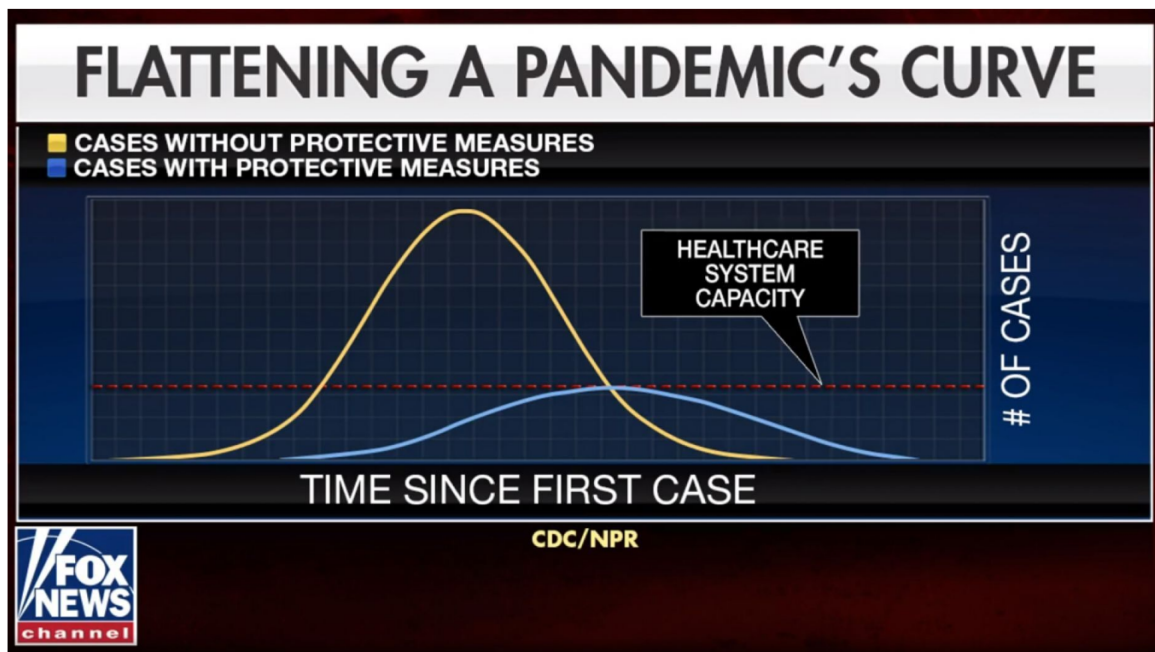
Phoebe-Putney Hospital in Albany, Georgia is an example of an Under-Equipped Hospital experiencing a surge in COVID-19 cases. [Phoebe Putney](#) reports current cases (1,963 confirmed cases as of 4/17/20), deaths (64 as of 4/17/20), shows how the hospital can only provide limited surgeries due to COVID-19, and shows the impact on resources – featuring instructions for volunteers to sew medical masks. Andy Miller of Georgia Health News reported CEO Scott Steiner’s warning that it is “a constant struggle to find enough personal protective equipment for staff.” “Every day, we know exactly how many units of each of these critical supplies we have, we know our daily usage rate, and we know how many days on hand we have left,” Steiner said. “We’ve gotten down as low as a day or two worth of supplies on some vital equipment. Thankfully, we’ve managed to avoid running out, but it takes constant work, literally hour by hour. We can’t just order from one of our normal suppliers and expect a truck to show up the next day.”

COVID-19 spreads rapidly in large gatherings, often carried by individuals with no or minimal symptoms. For example, [health officials have traced the outbreak in Albany to two widely attended funerals](#). Because COVID-19 virus is spread by droplets in coughs or sneezes, which spread about 6 feet from the infected individual, and such droplets live for several days on surfaces, it is very easy to touch the virus on a door handle or elevator button, touch your face, and become infected. A virus on a hand can spread rapidly to many others through handshakes.

Local governments should consider taking immediate action, whilst remaining in compliance with Governor Kemp’s April 2, 2020 and April 3, 2020 Executive Orders (discussed further below in question #3), to promote the [prevention guidelines](#) of the CDC

in their communities and adopt social distancing measures to reduce the spread of COVID-19 to “flatten the curve.”

“Flattening the Curve” is the goal of intentional social distancing programs, and local governments are uniquely empowered to enact social distancing measures by changing work policies for government workers and adopting ordinances that prohibit or limit non-essential gatherings.



In a [conversation with Fox and Friends](#), infectious disease expert Dr. Dena Grayson explained "The whole concept here is that we want to try to limit the spread of infection so that we don't have this huge surge of patients suddenly rushing to the hospital and overwhelming our hospital system because we only have a limited number of hospital beds, of ICU beds, and of ventilators." On March 16, 2020, President Trump issued Coronavirus Guidelines instructing Americans to “Listen to and Follow the Instructions of Your State and Local Authorities.”

Local government elected officials must take this crisis seriously to protect their constituents.

Q3: What does the State of Emergency declared by Governor Kemp mean and what temporary changes have been implemented because of his Executive Orders?

A3: On March 14, 2020, Governor Brian Kemp signed a [public health state of emergency](#) for the State of Georgia. This declaration activated the Georgia Emergency Operations Plan and designated the Georgia Emergency Management and Homeland Security Agency as the lead agency to deal with the crisis. The initial executive order mostly dealt with health-related issues but also provided more flexibility for commercial vehicles and their drivers. Normally, such commercial vehicles are limited to loads up to 80,000 pounds on interstates

and highways of the state and 56,000 pounds on roads in the county road system.¹ The initial proclamation allows properly permitted commercial vehicle traveling through the state “for the purposes of providing disaster relief and/or preparation to carry loads not exceeding 95,000 pounds, among other changes. This means local governments can expect to potentially see heavier commercial trucks on the roads during the emergency. Additionally, the first executive order prohibits price gouging of goods and services pursuant to state law.²

Following the initial Executive Order of March 14, 2020, Governor Kemp issued a second order on March 16, 2020, closing all schools beginning March 18, 2020. On March 20, 2020, a third Executive Order was issued once again dealing with mostly medical issues, including prescription drugs. However, this third Executive Order also temporarily changes the laws concerning local plan reviews and building inspections. The order specifically allows applicants seeking such plan reviews or inspections to retain “private professional providers” to perform such tasks without waiting out the time periods in O.C.G.A. §8-2-26(g)(4). This means, whether or not your local government is able to continue permitting and inspections, applicants will be able to bypass timelines in state law and utilize private professional providers to conduct such tasks.

On April 2, 2020, Governor Kemp issued another Executive Order, which would become effective at 6:00 p.m. on April 3, 2020. This new Executive Order issues a statewide “shelter in place” order to stop the spread of COVID-19. It is important for local government officials to read the entire Executive Order as it has many provisions. A [summary and analysis](#) of the Executive Order has been produced by ACCG and GMA which provides detailed practical guidance for Local Governments to assist in the implementation of, and compliance with, the Executive Order. The Executive Order specifically addresses local ordinances and orders, providing that for the duration of the executive order and any extension thereof, all declarations, ordinances, orders, and other actions taken by local governments since March 1, 2020, related to COVID-19 are suspended (i.e., they are no longer in effect and cannot be enforced) unless they are exactly the same as the Executive Order. More detail on this is provided in the summary. Some of the other provisions covered by the April 2nd Executive Order include requirements regarding the practice of social distancing at Local Government locations, and treatment of employees deemed essential critical infrastructure workforce.

In an updated Executive Order, on April 3, 2020 the Governor clarified that sheriffs and their deputies, are authorized to enforce the closure of businesses, establishments, corporations, non-profit corporations, or organizations in accordance with the April 2nd Executive Order.

On April 3, 2020, Governor Kemp issued a second Executive Order in which he further clarified the role of local law enforcement officers in the enforcement of his April 2, 2020 Executive Order. Pursuant to the second April 3rd Order, local law enforcement officers, both sheriffs and police officers, may issue misdemeanor citations to enforce the April 2nd

¹ O.C.G.A. §32-2-26

² O.C.G.A. §10-1-393.4

Order. However, municipal police officers **are not** "authorized to mandate the closure of any business, establishment, corporation, non-profit corporation, or organization ... " found not to be in compliance with the April 2nd Executive Order. Only those officials explicitly deputized by the Governor or the Georgia Emergency Management and Homeland Security Agency, which pursuant to the Governor's first April 3rd Order includes sheriffs, are permitted to mandate such closures.

On April 8, 2020 Governor Kemp issued five Executive Orders. Order 04.08.20.04 prohibits the lease or license of any vacation rental properties in the State of Georgia between 12:00 AM on April 9, 2020 and 11:59 PM on April 30, 2020. For the purposes of the Executive Order, "Vacation Rental" includes the lease or license, for 30 days or less, of residential property for residential or vacation purposes; that is facilitated by a third party or a broker. This definition does not include hotels, extended stay, campgrounds, or commercial transactions. The Executive Order does not apply to Vacation Rentals with fully paid reservation agreements executed or agreed to prior to 12:00 AM on Thursday, April 9, 2020. State, county, and local law enforcement officials may enforce this Executive Order by the issuance of misdemeanor citations. However, local law enforcement, or any other state or local official, **may not** dispossess or evict occupants of Vacation Rental to enforce the Executive Order.

Please note, it is critical that Local Government officers acquaint themselves with the entire content of all the Executive Orders, and not just the summary or other information provided by GMA, to ensure that their Local Government is in compliance based upon the specific local situation.

Q4: What does it mean to be in a “public health emergency” and what powers are given to the Governor during such emergencies?

A4: A “public health emergency” is defined by state law and in our current situation means there has been the appearance of a novel infectious agent that has a high probability of causing a large number of individuals serious harm or death.³ The Governor is granted, by state law, the ability to enforce law, rules, and regulations related to emergency management, to seize or condemn property for the protection of the public in accordance with the procedures of law, to sell, lend give, or distribute all or any such property, and to perform other functions deemed necessary to secure the safety of the public.⁴

Additionally, the Governor may “suspend 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 any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster”, utilize state and local resources to facilitate emergency services, transfer personnel and functions of state departments and agencies to cope with the emergency, commandeer or utilize any private property, compel health care facilities to provide services, direct evacuations, control

³ O.C.G.A. §38-3-3

⁴ O.C.G.A. §38-3-51

ingress and egress into disaster areas, suspend or limit the sales of alcohol, and provide for emergency housing.⁵

Furthermore, in a “public health emergency” the Governor is allowed to direct the Department of Public Health to coordinate matters related to planning and executing public health assessments, coordinate public health emergency responses between state and local authorities, collaborate with the federal government, other states, and private organizations and companies, organize public information activities, and provide for special identification for public health personnel involved in the emergency.⁶ Additionally, the law indicates the Governor may impose a quarantine or vaccination program and provides for certain civil rights protections allowed to anyone placed within such a quarantine or vaccination program.

Importantly, state law provides that the Governor is responsible for carrying out emergency management powers when there is an “emergency beyond local control.”⁷ The Governor is also authorized and empowered to make and amend executive orders, prepare a comprehensive plan for emergency management, ascertain the requirements of the state and local governments for food, clothing, and other necessities, institute public information programs, coordinate with federal authorities, take action and give direction to state and local law enforcement as may be reasonable and necessary, employ measures and give direction to the Department of Public Health (DPH) and local boards of health to secure compliance with recommendations from DPH, utilize services and facilities of local governments, delegate authority vested in him under the emergency powers, and enter into mutual aid agreements, among other powers.⁸

Q5: What are local governments empowered to do under a declaration of a State of Emergency by the Governor?

Pursuant to Governor Kemp’s April 2, 2020, Executive Order from 6:00 p.m. on Friday, April 3, 2020 until 11:59 p.m. on April 13, 2020 (or later, if the Public Health State of Emergency and this Executive Order are extended), all local government powers contained in Titles 36 and 38 are suspended as they relate to the enforcement of any local government ordinance or order adopted or issued since March 1, 2020 with the stated purpose or effect of: (1) responding to the public health emergency; (2) ordering residents to shelter in place; (3) ordering a quarantine; or (4) combatting the spread of COVID-19, if that ordinance or order is different in any way from the Governor’s Order.

The [summary and analysis](#) document of Governor Kemp’s April 2, 2020, Executive Order produced by ACCG and GMA provides a detailed analysis of this issue. However, in short, for the duration of the Executive Order and any extension thereof, all declarations, ordinances, orders, and other actions taken by local governments since March 1, 2020,

⁵ Id

⁶ Id

⁷ O.C.G.A. §38-3-22

⁸ Id

related to COVID-19 are suspended (i.e., they are no longer in effect and cannot be enforced).

Further, except as fully explained in the summary and analysis document, local governments may not adopt any ordinances or orders related to COVID-19 which conflicts, varies, or differs from the Governor's Executive Order. However, local governments may adopt ordinances or orders "as are designed to enforce compliance with this Order."

Regarding enforcement, the Executive Order specifically gives enforcement powers over business closure to the Georgia Department of Public Health, Department of Public Safety, and any state department or state officer deputized by the Governor or GEMA. In an Executive Order of April 3, 2020, updating the April 2, 2020 Executive Order, the Governor explicitly clarifies that sheriffs and their deputies, are authorized to enforce the closure of businesses, establishments, corporations, non-profit corporations, or organizations in accordance with the April 2nd Executive Order. In a second, later Executive Order on April 3, 2020, the Governor specified that both police officers and sheriffs may issue misdemeanor citations to those in violation of the April 2nd Executive Order. However, police officers **are not** "authorized to mandate the closure of any business, establishment, corporation, non-profit corporation, or organization ... " found not to be in compliance with the April 2nd Executive Order. Only those officials explicitly deputized by the Governor or the Georgia Emergency Management and Homeland Security Agency, which pursuant to the Governor's first April 3rd Order includes sheriffs, are permitted to mandate such closures.

On April 8, 2020 Governor Kemp issued five Executive Orders. Order 04.08.20.04 prohibits the lease or license of any vacation rental properties in the State of Georgia between 12:00 AM on April 9, 2020 and 11:59 PM on April 30, 2020. For the purposes of the Executive Order, "Vacation Rental" includes the lease or license, for 30 days or less, of residential property for residential or vacation purposes; that is facilitated by a third party or a broker. This definition does not include hotels, extended stay, campgrounds, or commercial transactions. The Executive Order does not apply to Vacation Rentals with fully paid reservation agreements executed or agreed to prior to 12:00 AM on Thursday, April 9, 2020. State, county, and local law enforcement officials may enforce this Executive Order by the issuance of misdemeanor citations. However, local law enforcement, or any other state or local official, **may not** dispossess or evict occupants of Vacation Rental to enforce the Executive Order.

Please note, it is critical that Local Government officers acquaint themselves with the entire content of all the Executive Orders, and not just the summary or other information provided by GMA, to ensure that their Local Government is in compliance based upon the specific local situation.

Q6: What about our local emergency management ordinances and plans?

A6: Your local government may have emergency management ordinances, mutual aid agreements, and emergency management plans which are important to follow and

understand in this time of crisis. It is likely that many of those ordinances, agreements, and plans were developed for more typical emergencies, such as floods, tornadoes, hurricanes, and fires. Nevertheless, these documents may still be effective and useful to address the COVID-19 crisis. Once the Governor declared a State of Emergency, those ordinances, agreements, and plans may have gone into effect. Therefore, it is important to consult with your local government attorney to ensure that leaders understand these emergency documents and identify and implement any actions they require.

Q7: What have the courts done in Georgia in response to this emergency?

A7: On March 14, 2020 Chief Justice Harold Melton issued an order declaring a [Statewide Judicial Emergency](#). This order requires courts to remain open to the extent feasible to address essential functions, giving priority to matters necessary to protect public health, safety, and liberty. The order states that the term “essential functions” is subject to interpretation, but provides five examples: defines five types: (1) where an immediate liberty or safety concern is present requiring the attention of the court as soon as the court is available; (2) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (3) domestic abuse temporary protective orders and restraining orders; (4) juvenile court delinquency detention hearings and emergency removal matters; and (5) mental health commitment hearings. The Chief Justice ordered that any court proceedings should be held in a manner to limit risk of exposure. He also suspended, tolled, extended, and otherwise granted relief from any deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, court orders, whether in civil or criminal cases or administrative matters.⁹ The judicial emergency will last until April 13, 2020, but may be extended by the Chief Justice.

Municipal courts have responded in different ways. Several municipal court judges provided feedback to GMA staff about their responses. To reduce the need for bail hearings and taking individuals into custody, some municipal courts have expanded the types of misdemeanor offenses eligible for “own recognizance” release. Some municipal courts have stopped filing bench warrants in GCIC, so individuals who would otherwise be flagged for arrest for failure to appear in court are not arrested. Some courts have communicated through their website that the court is temporarily closed, and individuals should not come to court for scheduled hearings. Some courts are implementing tools to conduct hearings virtually and to limit hearings. Judge Ryan Hope of Athens-Clarke County Municipal Court published the following: “[I]n order to reduce future bookings during the affected time period, any bench warrants, arrest warrants or probation violation warrants that are not yet signed, will be thoroughly screened. Only in cases that entail a clear public safety risk, will warrants be signed.” Moreover, through social media, he urged individuals to practice social distancing and not come to the courthouse to pay fines.

On March 30, 2020, supplementary to his March 14, 2020, order Chief Justice Melton [issued another order](#) clarifying and amending the trial rules governing videoconferences for the state’s municipal courts for the duration of the statewide judicial emergency caused by the COVID-19 pandemic. The March 30th order addresses both criminal and civil

⁹ O.C.G.A. §38-3-62

proceedings. In his most recent order, Chief Justice Melton clarifies that Uniform Municipal Court Rule 15.1, which provide for the use of telephone conferencing, also include videoconferencing, provided that all such conferences shall comply with applicable constitutional requirements. The March 30th order also waives the remote conferencing notice requirements provided under Uniform Municipal Court Rule 15.2 (C) to the extent that it imposes notice requirements beyond those ordinarily required by law or rule for proceedings conducted in-person.

The amended rules further waive Uniform Municipal Court Rule 15.2 (E) (4) to the extent that it requires that the public have access to the location at which a judge is presiding over a video conference, provided that notice is given to the parties and the public that a proceeding will occur wholly by remote video conference. The March 30th order allows for such notice to be given by a website posting or similar means. The order encourages Municipal courts to livestream proceedings via the internet, by providing provisions for such, in order to give the public access to those hearings. The March 30th order explicitly addresses potential objections to remote proceedings raised by a party or a member of the public, directing that the courts “shall sustain or overrule such objection” prior to conducting the proceeding.

Q8: We are receiving a lot of questions from our constituents about testing. How can we answer those questions and when can we expect more testing?

A8: The situation around testing and the lack of testing has caused a lot of concern and is very fluid. In the State of Georgia, Governor Kemp indicated to local governments on March 17, 2020, that the state was establishing independent test sites in each region of the state. He noted that there were 18 health districts around the state and each one should have a testing site. Testing capabilities are growing daily. The Georgia Department of Public Health is attempting to [prioritize testing](#) for the most vulnerable, first responders, and health workers. Therefore, until testing capacity increases people who do not fit into those categories may experience testing delays and delays in results. Again, news on testing changes frequently so it is important for local government leaders to stay in constant contact with their local boards of health and state leaders.

Q9: What legislative actions have the federal government taken? What do they do? When do they go into effect?

A9: The United States Congress has passed two crucial pieces of legislation in response to COVID-19. First, Congress passed the Families First Coronavirus Response Act (FFCRA) and it was signed by the President late in the evening on March 18, 2020. This federal legislation attempts to address a number of issues related to the growing health and economic crisis by providing certain sick and family leave benefits, testing for the virus, and financial assistance to states for providing unemployment benefits. Employers must be in compliance with the law no later than 15 days after enactment, which means April 2, 2020, and the law will remain effective until December 31, 2020.

The FFCRA first expands coverage and eligibility under the Family and Medical Leave Act (FMLA) on a temporary basis (1) by creating a new category of leave applicable to employees required to care for their minor children whose schools or places of care are closed or whose childcare providers are unavailable due to the pandemic, (2) by requiring that this new category of leave be partially paid, and (3) by making this new category of leave available to all public employees (who have been employed at least 30 days) regardless of the size of their employers' workforce.

It is important to note that the FFCRA does not alter eligibility requirements applicable to any of the FMLA's pre-existing categories of leave (e.g., due to the employee's or a covered family member's serious health condition, due to birth or placement of a child, etc.), meaning that if an employee was not eligible for such leave prior to FFCRA's enactment, he/she is not eligible for such leave now.

As for the extent to which this new category of FMLA leave is required to be paid leave, the employer can provide the first ten days of leave on an unpaid basis, with subsequent leave to be paid at two-thirds of the employee's regular rate of pay. The FFCRA imposes a cap of \$200/day and \$10,000 in aggregate. If the first ten days are unpaid, the employee may elect (but cannot be required) to substitute any accrued vacation leave or sick leave for the unpaid leave (including the emergency sick leave provided by the FFCRA, discussed below).

The FFCRA second makes up to 80 hours of paid sick leave available to employees when taken for one of more of the below-stated reasons. The rate and maximum amount of pay varies, however, depending on the reason for the leave. In this regard, an employee is entitled to leave at his/her full regular rate of pay, up to a maximum of \$511 per day (\$5,110 total), when the reason for the leave relates to:

- Complying with a federal, state or local government-issued quarantine or isolation order related to COVID-19;
- Complying with advice received from a healthcare provider to self-quarantine for reasons related to COVID-19; or
- Experiencing COVID-19 symptoms for which he/she is seeking a medical diagnosis.

An employee is entitled to leave at two-thirds his/her regular rate of pay, up to a maximum of \$200 per day (\$2,000 total), when the reason for the leave relates to:

- Caring for an individual – a family member or otherwise – complying with a federal, state or local government-issued quarantine or isolation order related to COVID-19;
- Caring for an individual – a family member or otherwise – complying with advice received from a healthcare provider to self-quarantine for reasons related to COVID-19;
- Caring for his/her own child if the child's school/place of care is closed or if the child's care provider is unavailable for reasons related to COVID-19; or

- Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Notably, the FFCRA authorizes employers to exempt emergency responders (and certain healthcare providers) from both (or from either/or) the Act's emergency sick leave and expanded FMLA leave provisions.

The FFCRA also requires employers to post a notice advising employees of their rights under the Act and the United States Secretary of Labor is going to be required to make available a model notice for employers by March 25, 2020. Although the FFRA provides for refundable tax credits for paid sick and paid family and medical leave equal to 100% percent of qualified paid leave benefits paid by an employer subject to certain caps and offset against social security taxes paid by the employer, these tax credits will not be available to local governments or instrumentalities of local governments.

The FFRA also seeks to make testing for the coronavirus free to the public by providing waivers so that the costs can be covered by insurance of the government. It also boosts unemployment benefits through state grants and allocated hundreds of millions of dollars for emergency food assistance programs. Detailed summaries of the FFRA can be found [here](#), [here](#), and [here](#).

The second piece of Federal legislation to be discussed here is the Coronavirus Aid, Relief and Economic Security (CARES) Act, which was passed the House of Representatives and then signed into law by President Trump on Friday, March 27, 2020. This bipartisan bill builds upon earlier versions of the CARES Act and is intended to be a third round of federal government support in the wake of the coronavirus public health crisis and associated economic fallout.

This legislation is aimed at providing relief for individuals and businesses that have been negatively impacted by the coronavirus outbreak. The CARES Act provides for state, local and tribal governments to receive \$150 billion. \$30 billion is set aside for states, and educational institutions. \$45 billion is for disaster relief, and \$25 billion is allocated for transit programs. Center for Disease Control ("CDC") programs and response efforts are getting \$4.3 billion, as part of these emergency funding measures. The understanding is that CDC is going to award millions of dollars to state and local jurisdictions to aid them in the COVID-19 response.

This bill also encompasses funding for other public health initiatives in the form of \$100 billion for hospitals nationwide for responding to the coronavirus. \$1.32 billion is provided in immediate additional funding for community centers that provide health care services for roughly 28 million people. There is \$11 billion allocated for diagnostics, treatments and vaccines, with \$80 million included for the Food and Drug Administration to prioritize and expedite approval of new drugs. \$20 billion is set aside for veterans. The bill reauthorizes a critical telehealth program to extend the reach of virtual doctors' appointments. Finally, the bill gives \$16 billion to the Strategic National Stockpile to increase availability of

equipment, including ventilators and masks. It also boosts hiring for vital health care jobs during the public health crisis and speeds the development of a vaccine, treatments and faster diagnostics.

Q10: What is the local government supposed to do about its own employees? Can we pay local government employees who are not working or are performing different services? How will this work? Can we pay “hazard pay”?

A10: Obviously, this public health emergency is not something that was ever expected and was very hard to plan for on the level of everything that has become an issue in the past few weeks. First, employees who are able to and are working from home is not a gratuity under the Georgia Constitution, even if it means they are not able to work as efficiently as they might if they were in the office. It is also possible to give employees work that might be slightly outside of their typical work duties in order to aid the local government in keeping services functional.

Many employers, including local governments, have begun requiring employees who cannot work from home to take paid leave. Obviously, this will not be ideal for many employees, but local governments should also remember that the federal government has enacted the FFCRA, discussed in the above question and answer, which will provide at least some relief to such employees. As more information becomes available, this question and answer will be updated to provide local governments with advice to help address these personnel issues.

Teleworking options will likely require some flexibility from local government leaders as many of your employees may also now find themselves responsible for taking care of family members, including the elderly and children, as other facilities and schools close. Local governments do provide vital resources and services in their communities and it will be up to each local government to find the balance between continued provision of those services and the safety of their own employees.

Telework guidance should instruct employees to save work documents solely in appropriate electronic locations (backed up and controlled by the local government) and not to print or save work documents elsewhere. This will greatly reduce disruption and potentially dangerous intrusion into an employee’s home to obtain public records in response to a request.

Local governments should particularly keep in mind some employees simply cannot work remotely or take time off. Jack Ryan, an attorney who also has twenty years of law enforcement experience and frequent lecturer on subjects concerning the law and law enforcement writes: “On every person to person contact officers are potentially exposed to persons who are contagious. In every traffic stop, every pedestrian stop, and any other contact, the officer will be in close proximity to the subject and may be handling items, i.e. license and registration, that the subject just handled. As such, officers can become

exposed and be placed under a 14-day quarantine or worse. In such events the overall numbers of public safety personnel available will thereby be diminished leaving not enough officers available to handle serious public safety events.”

Mr. Ryan compares COVID-19 to a natural disaster: “I would note that common practices in natural disasters, officers are placed in a fixed-position and do not respond to most calls for service during the heightened phase of the storm. Our current storm is Covid19 and a similar approach makes sense.” He recommends altering law enforcement priorities to prevent arrests: “Consider instructing officers to exercise discretion and avoid arrests for minor offenses that do not endanger others including property crimes.

Chiefs of police and sheriffs are strongly encouraged to put in place straight-forward safety policies and procedures aimed at limit the spread of COVID-19 from officers to the public, from the public to officers, and between officers. When producing such policies and procedures careful consideration should be given to the current guidelines from both the CDC and the DPH, as well as practical factors such as the ability of each individual police or sheriff’s department to implement such policies and procedures. Guidance on how to design and implement such procedures can be found on the GMA website.

A particular concern for law enforcement is the spreading of COVID-19 to officers, to corrections personnel, and to other persons housed in the jail. Additionally, with courts throughout the country being closed, these arrests will only further backlog the system.” Municipal court judges have advised GMA staff that many law enforcement agencies have altered enforcement priorities to reduce risks associated with COVID-19 and are increasing the use of the Uniform Misdemeanor Citation to issue tickets in many situations that used to involve arrest.

All of this is said to remind local governments that there are many potential classes of employee that work for the local government and each of their situations, including ability to work from home, to stagger schedules, and to protect them from potential disease because their job duties require interaction with the public, requires analysis and understanding in these difficult times.

Turning to the question of “hazard pay”, GMA has received several inquiries from members about "hazard pay" policies for first responders and other government employees. To help cities navigate some of the policy considerations, the National League of Cities (“NLC”) has published a blog post titled "[Hazard Pay Decisions Challenge City Leaders](#)".

In particular, members have been asking, whether "hazard pay" is reimbursable through FEMA's Public Assistance grant program. NLC reached out to FEMA's intergovernmental relations staff to try to get clarity on this question. FEMA responded, that if the city in question already had an established hazard pay labor policy prior to the COVID-19 outbreak then some of the costs could be covered.

Specifically, for Permanent Work, both straight-time and overtime labor costs are eligible for both budgeted and unbudgeted employees. For Emergency Work, only overtime labor

is eligible for budgeted employees. Extraordinary costs like hazardous duty pay are considered premium pay. FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-pandemic written labor policy, provided the policy:

- Does not include a contingency clause that payment is subject to Federal funding;
- Is applied uniformly regardless of a Presidential declaration; and
- Has set non-discretionary criteria for when the Applicant activates various pay types.

If these requirements are not met, FEMA limits Public Assistance funding to the Applicant's non-discretionary, uniformly applied pay rates. All costs must be reasonable and equitable for the type of work being performed. FEMA will determine whether the number of hours claimed are reasonable and necessary by evaluating:

- The severity of the incident;
- Whether the work was performed at a time when it was necessary to work extraordinary hours based on the circumstances of the incident;
- The function of the employee for which the hours are claimed; and
- The number of consecutive hours the employee worked.

For more information, see [PAPPG V3.1, Chapter 2:V.A. Applicant \(Force Account\) Labor](#), page 23.

Q11: What are our options under the Open Meetings Act? The Open Records Act?

A11: The public health emergency in effect throughout the state is unprecedented, but state law does provide for multiple methods to handle open meetings requirements in this state of emergency. Many local governments have been [struggling](#) with balancing hosting meetings to provide public access and ensuring the safety of their constituents.

The state laws governing emergencies allow local governments to conduct and “meet at any place within or outside the territorial limits of the political subdivision on the call of the presiding officer or any two members of the governing body and shall proceed to establish and designate by ordinance, resolution, or other manner alternate or substitute sites or places as the emergency temporary location or locations of government where all or any part of the public business may be transacted and conducted during the emergency or disaster situation.”¹⁰

In the Open Meetings Act itself there are two provisions which may be of use to local governments. If the local government absolutely needs or desires to meet in person during this public health emergency, then the laws for holding meetings in person would still apply as if there was no public health emergency. This means that regular meetings of the agency would be required to post the notice and agenda as regularly required and the public should

¹⁰ O.C.G.A. §38-3-54

be allowed into the meeting as normal.¹¹ Local governments should remember that the law specifically allows them to cancel or postpone regularly scheduled meetings.¹²

When hosting in-person meetings that are not regular meetings, the normal requirements under state law for posting notices should also apply. When special circumstances arise and are declared by the agency then the agency will be able to hold meetings with less than 24 hours' notice upon proper notice.¹³

If an in-person meeting is needed or desired it is strongly recommended that the local government or agency limit the items on the agenda to those that are specifically needed to be discussed in person. A local government should also utilize its police powers to some extent to prevent visibly ill people from attending the meetings, requiring social distancing in such meetings, encouraging, but not mandating, people to stay away from such meetings unless absolutely necessary, reminding attendees of the dangers presented, broadcasting the meeting to keep in-person attendance lower, having the meeting space sanitized and having sanitizer and masks available, limiting the attendance to keep with social distancing guidelines, and working with local media to ensure the public business is made public in these trying times.

However, despite all of the possibilities available for in-person meetings, the best option available to local governments, authorities, and other agencies defined under state law, is a rare exception to hold meetings purely by teleconference, so long as the general public has simultaneous access to the teleconference.¹⁴ This law specifically states that “[u]nder circumstances necessitated by emergency conditions involving public safety or the preservation of property or public services, agencies or committees thereof ... may meet by means of teleconference so long as the notice required by this chapter is provided and means are afforded for the public to have simultaneous access to the teleconference meeting.”¹⁵

Many local governments have raised questions about how this purely telephonic meeting provision might work practically and whether guidance might be provided from the state level regarding some of the nuances in this rarely used provision. At this time, local governments should attempt to do the best they can within the letter of the law. It is highly doubtful a good faith effort to comply with these provisions will result in enforcement. Some local governments have raised questions as to how a purely telephonic meeting might work without having the elected leaders interrupted by constituents. One suggestion would be to utilize a conference call for the elected leaders and key personnel while simultaneously broadcasting or using a different teleconference line so that the general public might observe the meeting.

¹¹ O.C.G.A. §50-14-1(d)

¹² O.C.G.A. §50-14-1(d)(1)

¹³ O.C.G.A. §50-14-1(d)(3)

¹⁴ O.C.G.A. §50-14-1(g)

¹⁵ Id

There are many potential services that could accommodate such practices, such as [Zoom](#), [Google](#), [Microsoft Teams](#), [Facebook Live](#), and [Slack](#), among countless others. Many of these companies have made their video conferencing platforms free to use during this crisis to some extent. While these solutions might not be perfect and there might be technical hiccups when utilizing these options, local governments and other agencies are encouraged to do their best in following the requirements of state law to provide simultaneous access to such teleconference meetings. It would also be wise for any agency utilizing such method of meeting to record the meeting for later consumption by the public and for such agencies to record actions taken by the agency in attempts to comply with this provision of the law.

In regard to the Open Records Act, the state law does not provide for any exception to the regulatory requirement that agencies respond to open records requests within three days of receipt. With many local governments moving to remote working and reduced in-office staff it will become more and more difficult for the local governments to handle open records requests. It is likely that at the start of the crisis the number of requests has diminished slightly, but it is also likely that requests will increase once the crisis extends in time. It would be wise for local governments to have a plan as to how to handle these requests and ensure that responses are still provided within three days of the request. If the government administrative building is closed due to the crisis, it will become very likely that the open records request will not be received or opened immediately. Therefore, the local government could respond in this way within the three-day time period and then later provide the information when it can be obtained.

One solution is to have the local government attorney craft a boiler-plate response explaining that the local government will respond to the open records request as quickly as it is able but that, due to the emergency, such response may take longer than it normally would. While such response might not fully capture all that the Open Records Act requires to be provided to a requester within the first three days, such a response will at least provide the requester with knowledge that the local government is working on the request. Although the state has not provided any formal guidance on the open records issue, if a local government can record and show that it did everything within its power to comply with the mandates of the Open Records Act, it will be very helpful should an enforcement action be brought in the future.

Q12: What actions should local governments take to help ensure eligibility for federal or state funding related to COVID-19?

A12: It is recommended that local governments consider implementing budget and accounting practices immediately to track expenditures related to COVID-19. Implementing these processes up front will be extremely helpful to document expenses if your city applies for disaster relief or reimbursement from Federal Emergency Management Agency (FEMA) or Georgia Emergency Management Agency (GEMA). Additional information about federal funding for cities is available [here](#). ICMA has also shared a [fact sheet](#) outlining requirements for documenting eligible emergency protective measures. Because both the federal government and the state have declared states of emergency it is not necessarily

required for the local government to do so as well to ensure funding. However, local governments may choose to declare an emergency in order to effectuate certain public safety and health measures in the local jurisdiction. Local governments should develop a policy which states how employees will be paid while on leave due to government closings or reduction of services due to COVID-19. For example, the policy should cover situations when employees will receive regular pay or required to use sick/annual leave. Records should be kept distinguishing between those employees actually working and those on required leave. This sort of policy will help the local government distinguish between employees actually working and those who are not for purposes of any potential future reimbursement.

Q13: What other actions might a local government consider taking in this crisis?

A13: Issues in this public health emergency are novel and new issues are arising daily as the crisis grows and expands. As local government officials know, many businesses whether required to be shuttered or not, predict permanent closure or extremely difficult financial futures. Additionally, people who work at these businesses, who are your constituents, are also facing job loss and great financial uncertainty. It is not unrealistic to state that COVID-19 and required responses will cause the worst financial crisis the United States has seen in decades.

Some local governments have already taken action to suspend shutting off of vital services, such as water, trash, and other local government services for any lack of payment. Local governments should remember that this public health crisis will only get worse if people are unable to frequently wash their hands and if public sanitation falls apart.

Local governments may want to consider making public service announcements and pleas for people [not to flush paper towels, wipes](#), and other items down the toilet as they can cause major sewage issues, which could compound the public health crisis in many jurisdictions.

If a city has parks and playgrounds, it may be wise to consider limiting or precluding people from using equipment in such locations. The virus has been shown to survive on many surfaces for days and thus playgrounds may cause further spread of the virus.

If the grocery stores and pharmacies in your jurisdiction have special hours for senior citizens, it may be beneficial for the community at large if the local government helps spread the word to those who might need vital supplies and are too scared to venture out in public.

For local governments that provide services to vulnerable populations, sanitation and general hygiene safety procedures should be revisited to ensure that the procedures in place are as safe as practicable. Where changes are made to such procedures, local governments should ensure that front line staff impacted by the changes are fully informed of the new procedures.

Local government leaders are the ones on the front line and the ones your constituents will turn to if things get worse. Therefore, local government leaders are strongly encouraged to provide avenues for communication with their constituents, to provide information to their constituents, and to take actions they deem necessary to save lives and stop the spread of COVID-19.