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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 404\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 404's Fiscal Note](#)

**Version:** As Reported by House Higher Education

**Primary Sponsors:** Reps. Manchester and Sweeney

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### SUMMARY

- Permits a state institution of higher education to establish a policy allowing its trustees to attend board meetings using a means of electronic communication.
- Permits a trustee attending a meeting using a means of electronic communication to be considered present at the meeting, to be counted for the purposes of establishing a quorum, and to vote at the meeting.

### DETAILED ANALYSIS

#### Electronic attendance of board of trustees meetings

As an exception to the Open Meetings Act, the bill permits the board of trustees of a state institution of higher education to establish a policy that allows trustees to use a means of electronic communication to attend and vote at a board meeting. For the purposes of the bill, “electronic communication” is live, audio-enabled communication that permits trustees attending the meeting and trustees and members of the public present in person at the place where the meeting is being conducted to communicate with each other simultaneously.<sup>1</sup>

A board’s policy must specify the number of regular meetings at which each trustee must be present in person, which may not be less than half of the regular board meetings held annually. Additionally, the policy must specify the following minimum standards regarding a meeting conducted using electronic communication:

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\* This analysis was prepared before the report of the House Higher Education Committee appeared in the House Journal. Note that the legislative history may be incomplete.

<sup>1</sup> R.C. 3345.82(A), (B), and (C).

1. At least one-third of the trustees attending a meeting must be present in person at the place where the meeting is conducted;
2. All votes taken at the meeting must be taken by roll call vote; and
3. A trustee who intends to attend a meeting using electronic communication must notify the chairperson of that intent not less than 48 hours prior to the meeting, except in the case of a declared emergency.<sup>2</sup>

Except as provided for under the bill, no one may limit the number of trustees who may attend a meeting using electronic communication, limit the total number of meetings that the board may conduct using electronic communication, limit the number of meetings a trustee may attend using electronic communication, or impose other limits or obligations on a trustee attending a meeting using electronic communication.<sup>3</sup>

A trustee who attends a meeting using an electronic means of communication must be considered present at the meeting and counted for the purposes of establishing a quorum.<sup>4</sup>

Under continuing law, the Open Meetings Act generally requires that each public body hold meetings that are open to the public, that minutes of the meeting be taken, and that, in most circumstances, members of the public body be present in person to be considered present or vote at the meeting and for the purposes of establishing a quorum.<sup>5</sup>

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## HISTORY

| Action                        | Date     |
|-------------------------------|----------|
| Introduced                    | 11-12-19 |
| Reported, H. Higher Education | ---      |

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<sup>2</sup> R.C. 3345.82(B)(1) and (2).

<sup>3</sup> R.C. 3345.82(D).

<sup>4</sup> R.C. 3345.82(C).

<sup>5</sup> R.C. 121.22, not in the bill.