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H.B. 176
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Brinkman and Becker

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SUMMARY

- Requires the board of trustees of a convention and visitors' bureau (CVB) to do the following if an elected officer (or their designee) of a county, township, or municipal corporation that levies an excise lodging tax serves on the CVB board of trustees:
 - Prepare, file, and maintain minutes of each meeting of the CVB board of trustees;
 - Open the meeting minutes to inspection by the public;
 - Prepare and make available for public inspection all records regarding financial information and vendor payments in the same manner as public records.

DETAILED ANALYSIS

CVB open meetings and public records

The bill requires certain convention and visitors' bureaus (CVBs) to prepare, file, and maintain minutes for each meeting of its board of trustees and to open the minutes to inspection by the public. CVBs also must prepare and make available for public inspection all records of the CVB regarding financial information and vendor payments. The bill applies to a CVB if an elected officer of a county, township, or municipal corporation that levies an excise lodging tax serves on the CVB board of trustees, or if a designee of such an officer serves on the board.¹ CVBs are typically established as nonprofit corporations and therefore are not subject to Ohio's Open Meetings Law and Public Records Act in the same manner as public entities under current law, but see the "**COMMENT**" below.

¹ R.C. 3.111.

COMMENT

A court could determine a CVB is subject to the Public Records Act using the “functional equivalent” test, determined based on the following factors: (1) whether the entity performs a governmental function, (2) the level of government funding, (3) the extent of government involvement or regulation, and (4) whether the entity was created by the government or to avoid the requirements of the Public Records Act.²

Some private entities are considered “public bodies” for purposes of the Open Meetings Act when they are organized pursuant to state statute and are statutorily authorized to receive and expend government funds for a governmental purpose.³ CVBs are statutorily authorized to receive and expend government funds,⁴ but are not organized pursuant to state law. Therefore it is unclear that a court would find a CVB subject to Open Meetings Law.

HISTORY

Action	Date
Introduced	03-28-19

H0176-I-133/ar

² See *State ex rel. Oriana House, Inc. v. Montgomery*, 110 Ohio St.3d 456, 2006-Ohio-4854, paragraphs one and two of syllabus; see also *State ex rel. Repository v. Nova Behavioral Health, Inc.*, 112 Ohio St.3d 338, 2006-Ohio-6713.

³ *State ex rel. Toledo Blade Co. v. Economic Opportunity Planning Assn. of Greater Toledo*, (Lucas County, 1990).

⁴ R.C. 307.693, 505.58, 5739.08, and 5739.09, not in the bill.