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H.B. 257
135th General Assembly

Final Analysis

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Primary Sponsors: Reps. Hoops and Claggett

Effective date:*

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SUMMARY

- Authorizes members of certain public bodies to hold and attend meetings and conduct and attend hearings virtually, by video conference or any other similar electronic technology, when certain conditions are met.
- Permits members of public bodies to attend meetings or hearings virtually when the public body has adopted certain policies, including methods by which members of the public may observe and attend meetings and hearings.
- Prohibits public bodies from attending a meeting or hearing virtually if the meeting or hearing involves a vote to approve a major nonroutine expenditure or significant hiring decision, or a vote on a tax issue or tax increase, or if the board members are compensated for or elected to their positions on the board.
- Prohibits public bodies to hold or attend hearings virtually without the consent of all parties to the hearing.
- Permits public bodies otherwise prohibited from holding or attending virtual meetings due to member compensation or election to attend a virtual meeting in which multiple public bodies are participants, provided that the meeting is not for the purpose of voting on a major nonroutine expenditure, significant hiring decision, or tax issue or increase.
- Provides that a member of a Joint Economic Development District (JEDD) board does not have to be present in person at a meeting in order to be part of a quorum or to vote if the JEDD board holds a virtual meeting in accordance with continuing provisions for other similar boards.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

- Specifically allows the Public Employees Retirement System, the Board of Trustees of the Ohio Police and Fire Pension Fund, the School Employees Retirement Board, and the State Highway Patrol Retirement Board to meet virtually when they adopt a particular policy.

DETAILED ANALYSIS

Virtual meetings for certain public bodies

The act permits members of certain public bodies to hold and attend virtual meetings and conduct and attend virtual hearings by means of video conference or any other similar electronic technology.¹ The act specifies that its provisions do not negate any provisions of the Open Meetings Law or Administrative Procedure Act, or other provisions of the Revised Code, that do not conflict with the act.² Under the Open Meetings Law, public bodies generally are required to take official action and deliberate official business only in open meetings where the public may attend and observe, and members of the public body must be present in person at a meeting in order to be considered present, vote, or be counted as part of a quorum.

Public body defined

Under the Open Meetings Law, “public body,” means:

Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution.³

Virtual meetings and hearings

The act specifies that when meeting virtually, a rule, resolution, or formal action has the same effect as if it occurred during an open meeting or hearing of the public body. Members of the public body who attend virtually are considered present at the meeting for quorum and other purposes, and must be permitted to vote.

The public body may not meet or hold a hearing virtually until it has adopted a policy that satisfies the act’s requirements, explained below.⁴ The act clarifies that, if a provision of the Revised Code permits a particular public body to meet or hold hearings by means of teleconference, video conference, or any other similar electronic technology, that provision prevails over the act’s general provisions with respect to that particular public body. For example,

¹ R.C. 121.221, 924.12, and 5534.06.

² R.C. 121.221(D); R.C. 121.22 and R.C. Chapter 119, not in the act.

³ R.C. 121.22, not in the act.

⁴ R.C. 121.221(B)(1) and (2).

the sections of the act creating virtual meeting procedures for the School Employees Retirement System prevails over the act's general provisions in R.C. 121.221.⁵

Notification of the meeting or hearing

To hold a virtual meeting or hearing, the public body must adopt a policy that requires notice to the public, the news media that have requested notification of a meeting, and any parties required to be notified of a virtual meeting or hearing at least 72 hours in advance of the meeting or hearing. The notice must be through reasonable methods by which any person may determine the time, location, and agenda of the meeting or hearing, and how the meeting or hearing will be conducted. In the case of an emergency requiring immediate official action, as defined by the public body's policy, the public body immediately must notify the news media, or parties required to be notified, of the time, place, and purpose of the meeting or hearing.

In addition, a member of the public body who intends to attend a meeting or hearing virtually must notify the chairperson of that intent not less than 48 hours before the meeting or hearing, except in the case of an emergency as defined in the policy.⁶

Public access

Additionally, the policy must include that the public body provide the public access to a virtual meeting or hearing that the public is entitled to attend, commensurate with the method used to conduct the meeting or hearing. The act gives some examples: livestreaming by means of the internet, television, cable, or public access channels.

The public body must ensure that the public can observe and hear the discussions and deliberations of all the members of the public body, whether the member is participating in person or virtually. To this end, members of the public body must have a sufficient internet or other electronic connection so the member is seen and heard clearly, and the member must always be visible.

The public body also must establish a means, using electronic equipment that is widely available to the public, to converse with witnesses, receive documentary testimony and physical evidence, and permit public comment, if applicable.

Additionally, no public body may hold or permit attendance of a virtual meeting or hearing without the consent of all parties to the meeting or hearing. For example, if a person had a hearing scheduled with the Liquor Control Commission, the person has the right to have an in-person hearing.⁷

Voting procedure

All votes taken at a meeting or hearing held virtually must be by roll call vote, unless there is a motion for unanimous consent, and the motion is not objected to by a member of the public

⁵ R.C. 121.221(D) and 3309.091.

⁶ R.C. 121.221(B)(3)(a) and (d).

⁷ R.C. 121.221(B)(3)(b), (B)(4), and (C).

body. If a vote is taken unanimously, the public body must provide the public with information on how the members voted, including any members who abstained from voting.⁸

In-person meetings required

The act prohibits a public body from holding, and a member of a public body from attending a meeting or hearing virtually, if the meeting or hearing involves a vote to approve a major nonroutine expenditure or significant hiring decision, as defined by the public body's policy, or to propose, approve, or vote on a tax issue or increase, or if the board's members are compensated (excluding compensation for qualified expenses) for their position as board members or elected to their positions by a vote of the general public.

Additionally, if 10% of the members of the public body, or two members if the public body has 20 members or less, at least 48 hours before the meeting, notifies the chairperson that an item in the agenda must be acted upon at a meeting conducted fully in person, and if the chairperson acknowledges receipt of the notification, the public body may only take action on that item at a meeting conducted fully in person.⁹

Multi-party meetings

Under the act, a multi-party meeting is a meeting between two or more public bodies. The act permits public bodies otherwise prohibited from holding virtual meetings and hearings due to member compensation or election to hold and attend virtual multi-party meetings, provided that the meeting is not held for the purpose of voting on a major nonroutine expenditure, significant hiring decision, or tax issue or increase.¹⁰

Remote attendance – Joint Economic Development Districts

The act provides that a member of a board of directors of a Joint Economic Development District (JEDD) does not have to be present in person at a meeting open to the public to be part of a quorum or to vote if the JEDD board holds a virtual meeting, similar to other continuing law procedures that permit members of the board of directors of a Joint Economic Development Zone and a Joint Economic Review Council to attend meetings virtually.¹¹

Virtual meetings for retirement boards

The act also specifically permits members of certain retirement boards to attend meetings virtually when they adopt a particular policy. The relevant provisions of the act are similar to continuing law that governs the State Teacher's Retirement Board, except the act's provisions do not permit attending meetings by teleconference.¹² These boards are:

⁸ R.C. 121.221(B)(3)(c).

⁹ R.C. 121.221(B)(3)(e) and (f).

¹⁰ R.C. 121.221(A) and (B)(5)(b).

¹¹ R.C. 715.693.

¹² R.C. 3307.091.

- The Public Employees Retirement System;
- The Board of Trustees of the Ohio Police and Fire Pension Fund;
- The School Employees Retirement Board; and
- The State Highway Patrol Retirement Board.

Under the act, the listed retirement boards may adopt a policy that allows a board member to attend a board meeting virtually if the policy includes the following:

- The number of regular in-person meetings (a meeting in which no virtual attendance is allowed) must be at least $\frac{3}{4}$ of the board's annual meetings;
- A majority of the board members attending the meeting must be present in person;
- All votes taken must be by roll call vote; and
- A board member must notify the chairperson of the intent to attend a meeting virtually no less than 48 hours before the meeting, except in the case of an emergency as defined in the board's policy.

A board member who attends a meeting virtually is considered present in person at the meeting for purposes of determining a quorum, and may vote at the meeting. The board must ensure that the public can hear and observe the discussions and deliberations of all members of the board, whether the person is participating in person or virtually, for any meeting in which a board member attends virtually.

Additionally, other than the limits imposed by the act's provisions, no person may limit the number of board members who attend virtually, the total number of meetings in which the board may allow members to attend virtually, or the number of meetings at which any one board member may attend virtually, or impose other limits or obligations on a board member because the board member attends a meeting virtually.¹³

State Teachers Retirement Board meeting policies

The act revises the State Teachers Retirement Board's former virtual meeting authority to bring the proportion of in-person meetings and attendance in line with the other retirement boards affected by the act. Under former law, at least $\frac{1}{2}$ of the board's regular meetings must be held in person, and at least $\frac{1}{3}$ of the board members must be present in person at a meeting when a member attends the meeting virtually. The act requires that at least $\frac{3}{4}$ of the board's regular meetings be held in person, and that a majority of the board members be present in person at a meeting when a member attends the meeting virtually.¹⁴

¹³ R.C. 145.071, 742.071, 3309.091, and 5505.04.

¹⁴ R.C. 3307.091(A)(1) and (2)(a).

HISTORY

Action	Date
Introduced	08-22-23
Reported, H. Gov't Oversight	11-15-23
Passed House (74-3)	11-29-23
Reported, S. Gov't Oversight	12-11-24
Passed Senate (29-1)	12-18-24
House concurred in Senate amendments (86-1)	12-18-24
