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H.B. 257
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Hoops and Claggett

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SUMMARY

- Authorizes members of certain public bodies to hold and attend meetings and conduct and attend hearings virtually, when certain conditions are met.
- Permits meetings or hearings to be held 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 conducting 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 to support a tax issue or tax increase.
- Prohibits public bodies to hold or attend hearings virtually without the consent of all parties to the hearing.
- 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.
- Declares an emergency.

DETAILED ANALYSIS

Virtual meetings for certain public bodies

The bill permits members of certain public bodies to hold and attend meetings and conduct and attend hearings by means of teleconference, video conference, or any other

similar electronic technology.¹ The bill 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 bill.² Under current 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 existing 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

However, the bill excludes the following from the definition of “public body” for the purposes of the bill:

- The General Assembly, or any of its committees or subcommittees;
- Any court, including a mayor’s court;
- The State Board of Education;
- The Bureau of Workers’ Compensation;
- The Ohio Elections Commission;
- A board of county commissioners;
- A board of township trustees;
- The legislative authority of a municipal corporation or charter county;
- A city, local, or exempted village board of education;
- A board of elections, unless a board is meeting within 90 days of an August special election.⁴

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 bill.

³ R.C. 121.22, not in the bill.

⁴ R.C. 121.221(A); R.C. 121.22(B)(1)(a), not in the bill.

Virtual meetings and hearings

The bill 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. All votes taken at a meeting or hearing must be by roll call vote.

The public body may not meet or hold a meeting or hearing virtually until it has adopted a policy that satisfies the bill's requirements, explained below (see "**Notification of the meeting or hearing**," "**Public access**," and "**In-person meetings required**," below).⁵

Notification of the meeting or hearing

To hold a virtual hearing or meeting, the public body must adopt a policy that requires the public body to notify 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, using reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted. Except in an emergency requiring immediate official action, as defined by the policy, in which case 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 virtually must notify the chairperson of that intent not less than 48 hours before the meeting, except in the case of an emergency as defined in the policy.⁶

Public access

The policy additionally must include that the public body must provide the public access to a virtual meeting or hearing that the public is entitled to attend, commensurate with the method in which the meeting or hearing is being conducted. The bill gives some examples: livestreaming by means of the internet, local radio, television, cable, or public access channels, and call-in information for a teleconference.

The public body must ensure that the public can observe, when applicable, and hear the discussions and deliberations of all the members of the public body, whether the member is participating in person or electronically. To this end, members of the public body must have a sufficient internet or other electronic connection to allow the member to be seen clearly, if applicable, and heard clearly, and the member must be visible at all times if attending a meeting or hearing by video conference.

⁵ R.C. 121.221(B)(1), (2), and (3)(c).

⁶ R.C. 121.221(B)(3)(a) and (d).

For hearings, the public body must establish a means, through the use of electronic equipment that is widely available to the general public, to converse with witnesses and to receive documentary testimony and physical evidence.

Additionally, no public body may hold a hearing, and no members of a public body may attend a hearing virtually, without the consent of all parties to the 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

In-person meetings required

The bill 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, or a vote to support a tax issue or tax increase.

Additionally, if 10% of the members of the public body, or two members of the public body if the public body has 20 members or less, notifies the chairperson that an item in the agenda must be discussed or acted upon at a meeting conducted fully in person, and if the chairperson acknowledges receipt of the notification, the public body may only discuss or take action on that item of the agenda at a meeting conducted fully in person.⁸

Virtual meetings for retirement boards

The bill also specifically permits certain retirement boards to have virtual meetings when they adopt a particular policy. These provisions essentially are identical to existing law provisions that govern the State Teacher's Retirement Board.⁹ These boards are:

- 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 bill, the listed retirement boards may adopt a policy that allows a board member to attend a meeting of the board by means of teleconference or video conference 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 1/2 of the board's annual meetings;
- At least 1/3 of the board members attending the meeting must be present in person;

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

⁸ R.C. 121.221(B)(3)(e) and (f).

⁹ R.C. 3307.091, not in the bill.

- 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 policy.

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

Additionally, other than the limits imposed by the bill's provisions, no person may limit the number of board members who attend virtually, limit the total number of meetings in which the board may allow members to attend virtually, limit 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.¹⁰

HISTORY

Action	Date
Introduced	08-22-23

ANHB0257IN-135/ts

¹⁰ R.C. 145.071, 742.071, 3309.091, and 5505.04.