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H.B. 257
135th General Assembly

Bill Analysis

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Version: As Passed by the House

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 by video conference, when certain conditions are met.
- Permits members of public bodies to attend meetings or hearings by video conference 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 by video conference 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.
- Permits party central committees to fill vacancies using a secret ballot process.
- 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 in order to be part of a quorum or to vote if the JEDD board holds a virtual meeting in accordance with existing provisions.
- 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 via video conference or other similar electronic technology when they adopt a particular policy.

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 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 Board of Directors of 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.⁴

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

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.

the public body who attend via video conference or similar electronic technology 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 bill's requirements, explained below (see "**Notification of the meeting or hearing**," "**Public access**," "**Voting procedure**," and "**In-person meetings required**," below).⁵ The bill 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 bill's general provisions with respect to that particular public body. For example, the sections of the bill creating virtual meeting procedures for the School Employees Retirement System prevails over the bill's general provisions in R.C. 121.221.⁶

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, agenda of the meeting or hearing, 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, 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.⁷

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, 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 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 and heard clearly, and the member must be visible at all times.

⁵ R.C. 121.221(B)(1) and (2).

⁶ R.C. 121.221(D) and 3309.091.

⁷ R.C. 121.221(B)(3)(a) and (d).

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

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.⁸

Voting procedure

All votes taken at a meeting or hearing held by video conference or similar electronic technology 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 body. If a vote is taken unanimously, the public body must provide the public with information on how the members of the public body voted, including any members who abstained from voting.⁹

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, as defined by the public body in the policy, 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, 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 of the agenda at a meeting conducted fully in person.¹⁰

County central committees – filling vacancies

The bill permits a county central committee, if there is a vacancy in the office of county commissioner, prosecuting attorney, county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, or coroner, if the official was elected as a partisan candidate, to fill the vacancy using a secret ballot process (requiring a majority vote as under continuing law).¹¹

Remote attendance – Joint Economic Development Districts

The bill 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

⁸ R.C. 121.221(B)(3)(b) and (B)(4); R.C. 121.221(C).

⁹ R.C. 121.221(B)(3)(c).

¹⁰ R.C. 121.221(B)(3)(e) and (f).

¹¹ R.C. 305.02.

public in order to be part of a quorum or to vote if the JEDD board holds a virtual meeting in accordance with existing provisions. These existing provisions are similar to other existing remote meeting procedures, and permit members of the board of directors of a Joint Economic Development Zone and a Joint Economic Review Council to attend meetings remotely. The bill extends these provisions to JEDD boards of directors.¹²

Virtual meetings for retirement boards

The bill also specifically permits members of certain retirement boards to attend meetings via video conference or other similar electronic technology when they adopt a particular policy. These provisions are similar to existing law provisions that govern the State Teacher's Retirement Board, except the bill's provisions do not permit attending meetings by teleconference.¹³ 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 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 $\frac{1}{2}$ of the board's annual meetings;
- At least $\frac{1}{3}$ 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 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 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

¹² R.C. 715.693.

¹³ R.C. 3307.091, not in the bill.

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.¹⁴

HISTORY

| Action | Date |
|------------------------------|----------|
| Introduced | 08-22-23 |
| Reported, H. Gov't Oversight | 11-15-23 |
| Passed House (74-3) | 11-29-23 |

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¹⁴ R.C. 145.071, 742.071, 3309.091, and 5505.04.