



Ohio Association of Community Action Agencies

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Testimony before the House Committee on Civil Justice December 17, 2024

Philip E. Cole
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Ohio Association of Community Action Agencies

Good morning Chair Hillyer, Vice Chair Matthews, Ranking Member Isaacsohn, and members of the Ohio House Committee on Civil Justice. I am Phil Cole, Executive Director of the Ohio Association of Community Action Agencies. I thank you for the opportunity to testify about an amendment being offered concerning Ohio's Community Action Agencies and the Open Meetings Act.

The Ohio Association of Community Action Agencies represents Ohio's forty-eight Community Action Agencies serving every county in Ohio. Community Action Agencies are the primary providers of services to eliminate poverty and to assist those who suffer its ravages as they work to become self-sufficient. Ohio's Community Action Agencies provide a variety of services to our low-income customers including job training and placement, Head Start, Emergency Rent Assistance, affordable housing, health care, transportation, home weatherization, the Home Energy Assistance Program and many others.

Community Action Agencies serve about 600,000 individuals annually and our revenues are between five hundred and six hundred million dollars each year. We also employ approximately 10,000 Ohioans.

The amendment we hope for will allow us to correct a common pleas court decision from 34 years ago which has caused confusion about the standing of Community Action Agencies in relation to the Open Meetings Act and our ability to conduct hybrid or virtual meetings. While the court failed to consider most of the ramifications of applying the Open Meetings Act to private nonprofit corporations, ignoring applicable statutes, it has caused difficulties which can be solved by legislation. Allow me to explain.

There are many complications caused by this decision, including the possibility of state departments wanting to apply the Act to private nonprofits. This is in spite of the fact that at least the last two Ohio Attorneys General state very clearly in their trainings that the Open Meetings Act is a "self-help" law which can only be pursued by people who feel they have been harmed who then may seek an injunction in court. It cannot be enforced by the Attorney General or any state agency, only by a court.



The following link is to a Youtube training video offered by the Office of the Ohio Attorney General:

<https://www.youtube.com/watch?v=CqbYPQBr4hs>

To be specific, Ohio's Community Action Agencies are incorporated under Sec. 1702 ORC, the Ohio statute which incorporates private, nonprofit corporations,. After achieving nonprofit corporate status and then meeting other requirements including unique board membership, they can be certified by the State as a Community Action Agency. The federal law establishing Community Action Agencies, adopted in 1984, directed state legislatures to allow the community action designation to be placed on either private entities or public entities. It is a state legislative decision. The Ohio General Assembly stated its position quite clearly when it created sec. 122.66 (D) ORC which says:

“Community action agency” means a community-based and operated **private nonprofit agency or organization**. (emphasis added)

The Ohio Department of Development must follow state statute in awarding that designation.

As private, nonprofit agencies, each Community Action Agency in Ohio is incorporated under the laws of this State, governed by Chapter 1702, Ohio's Nonprofit Corporation Law. Specifically, we are governed by Chapter 1702 ORC, Chapter 122 ORC as well as Federal Law and Regulations. The Open Meetings Act is not designed with consideration of those laws since it is intended to apply to administrative agencies of government. Private, nonprofit corporations are not administrative agencies of state government.

To comply with the Open Meetings Act, sec 121.22 (F) says “Every public body, **by rule**, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings.” (emphasis added) Private corporations cannot do this.

When Ohio statute refers to a rule as in this instance, it means, according to the Legislative Services Commission:

“a formal written statement of the law that has been established by an administrative agency under the statutes that authorize the agency to adopt rules.”

Sec. 119.01 (A) (1) says an administrative agency is “any official, board, or commission having authority to promulgate rules....” Private corporations, either nonprofit or for-profit, cannot meet this definition as they have never been given the



authority to promulgate rules for the Ohio Administrative Code by the General Assembly. Private corporations are not governmental administrative agencies.

I can assure you that during my tenure as executive director of the Joint Committee on Agency Rule Review in the 1980s, not one private nonprofit or for-profit corporation ever submitted a rule or rules for our review. The General Assembly has never said they could be part of the Ohio Administrative Code.

What we are asking is that Ohio Revised Code be amended to exempt Community Action Agencies from the Open Meetings Act and allow us to also have hybrid meetings. Hybrid meetings increase attendance by board members and reduce costs.

However, we are not opposed to public notice. We are in agreement with the idea of requiring public notice and suggest inserting provisions in the statutes that apply to CAAs which will bring our agencies in close compliance with the Open Meetings Act and ensure we can also have hybrid meetings.

We want to eliminate the confusion regarding our legal status as private corporations, and comply with the other Federal and State laws and regulations. This is much easier than it sounds. A simple amendment will do it.

I will be happy to answer your questions.

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