



## **Senate Bill 293 – Open Meetings Violations**

*Ohio Senate General Government and Agency Review Committee*

**May 20<sup>th</sup>, 2020**

Chairman Schuring, Vice Chair Rulli, Ranking Member O'Brien, and members of the Senate General Government and Agency Review Committee, thank you for the opportunity to submit testimony in favor of Senate Bill 293, sponsored by Senators Blessing and Manning.

Three years ago, the Ohio Court of Claims launched a new process for public records disputes. This process was established under Senate Bill 321 (131<sup>st</sup>), which was sponsored by then-Senate President Keith Faber. Since its creation, this process has been recognized across the state and nationally as a model for successfully and fairly resolving disputes between citizens, media, and governmental entities.

When the Ohio News Media Association and Ohio Association of Broadcasters first began discussing a public records appeal process, our goal was simple: to establish a low-cost method for many of these disputes to be resolved. Prior to passage of Senate Bill 321 in 2016, the only way for media outlets and citizens to appeal the denial of a records request was to go to court. This not only created a significant cost burden for the requester, but it also required the governmental entity to expend time and resources to defend their denial.

Interestingly, governmental entities prevail in many of the decisions rendered by the Special Master at the Court of Claims. Further, the Special Master is barred from rendering decisions on new or unresolved public records issues; he or she must rely on statute and court precedent exclusively. Finally, the process allows for either party to appeal the decision.

Using this process and keeping with the goal of creating a quick and easy way to resolve disputes, we are encouraging this committee to favorably report SB 293, which would expand the Court of Claims process to cover open meetings violations.

We believe that the Court of Claims could assist in resolving many of the issues that arise involving Ohio's open meetings law (R.C. 121.22). Here are some examples of recent issues reported by our members where this process could result in a speedy resolution—

- Earlier this month, a reporter alerted us that a local city council was limiting attendance at an upcoming council meeting due to COVID-19, but was not planning to broadcast the hearing or create a way for media and the public to participate. This is in direct conflict with language included in HB 197, passed earlier this year;
- We received a complaint from a reporter that a school board had gone into executive session without stating the reason for the session (i.e. discussion of personnel issue, discussion of pending or imminent litigation, discussion of security issues). Further, the board did not formally vote to go into session. Both actions violate R.C. 121.22 and Ohio Supreme Court precedent;
- Over the last few years, there have been a series of violations of Ohio's open meetings law involving members of a public body communicating via group text or e-mail to circumvent public discussion of issues. Some of these actions have resulted in lawsuits and significant fines. A lower cost process to adjudicate these violations would save taxpayer money.

These are just a few of the many examples where violations of Ohio's open meetings laws occur and where this new process could result in a swift resolution that is far more affordable to all parties involved.

In closing, we want to thank Senators Blessing and Manning for their work on this important issue and State Auditor Faber for his continued commitment to transparency. We appreciate your consideration of this legislation.

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