



Testimony before the Senate Government Oversight & Reform Committee
House Bill 404
November 17, 2020

Chairman Coley, Vice Chair Huffman, Ranking Member Craig and members of the Senate Government Oversight & Reform Committee, thank you for the opportunity to provide written testimony on House Bill 404. I am Jack Hershey, President of the Ohio Association of Community Colleges (OACC), which represents the trustees and presidents of all twenty-three of the state's public community colleges.

OACC is unique in that we represent both the presidents and trustees of all twenty-three of Ohio's 2-year institutions. Since OACC was first founded, our organization has always been led by one of our state's trustees. Jim Doyle, who is a trustee at Clark State Community College, currently serves as chair of OACC. In addition to Mr. Doyle, other college trustees serving as officers of our Association include:

- Chair-Elect – Alice Stephens, trustee at Stark State College
- Secretary – Kyle Rudduck, trustee at Southern State Community College
- Immediate Past Chair – Elizabeth Gates, trustee at Belmont College

In December of last year, the OACC Governing Board voted to formally endorse this legislation. While modernizing how our trustees met and transparently conducted business was important a year ago, these past several months have certainly amplified why this is not only important, but actually a way to increase public participation in our public meetings.

HB 404 would allow boards of trustees to adopt a policy that would allow for trustees to attend a meeting via electronic means, while also establishing some guidelines to protect both the deliberative nature of the board and the public's need for transparent decision making at our board meetings. HB 404 lays out five different guardrails that a board of trustees must maintain while they are developing a policy to allow for teleconferencing by trustees:

1. A trustee must attend no less than 50% of regular meetings in person each year.
2. At least one third of the trustees must be present in person at the meeting location.
3. All votes must be taken by roll call at the meeting.
4. A trustee must provide 48 hour notice of their intent to participate via teleconference.
5. A trustee participating via teleconference would be counted as present and may vote at the meeting.

As OACC evaluated this bill, we contacted other states to see how they handled the issue of teleconferencing by college trustees. While we did not do a complete 50 state scan, the states that we did contact all reported having more modern policies than Ohio, which currently allows for no method of participation other than physically being present at the meeting. It is important to note that several states reported no additional guidance on this topic in law, beyond simply allowing for remote participation. In these states, the decisions as to how trustees may participate is left up to the individual boards to decide. States that operate in this manner include: Wyoming, Oregon, Pennsylvania, and Wisconsin.

Michigan

The issue is not addressed in their open meetings law, so they instead rely on advice from the state's Attorney General, which recommends that board of trustees adopt rules locally to outline how trustees can participate remotely, while ensuring that those attending the meeting remotely can be clearly heard by the general public attending the meeting in person. Michigan also recommends that all votes be taken by roll call, and that at least a quorum of the board be physically present in person.

Iowa

Iowa allows trustees to participate and vote remotely, but goes further and outlines how a board could hold an entire meeting via electronic means if an in-person meeting is either impossible or impractical. In this case, the public must be allowed reasonable access to the conversation, and the minutes must reflect a discussion of why an in-person meeting was impossible or impractical.

Florida

Trustees may virtually attend meetings, however, a physical quorum must still be present at the meeting. In addition, trustees participating remotely must be able to be heard by all in the meeting room.

Washington

Trustees can attend meetings and take action via conference call. The call must be easily heard by all who attend the meeting, including audience members. The trustee must attend the entire meeting if participating remotely.

California

Teleconferencing is allowed, but a quorum of the governing board must still be physically present at the meeting. The board may accept a consent agenda, but all other matters must be voted on by a roll call vote if some trustees are participating remotely.

Most of these states have allowed for remote attendance for several years without controversy. They also reported that even with this authority, most boards are still meeting in person, with the majority of trustees attending in person. Weather concerns were listed as the most common reason for a trustee choosing to attend remotely. The second most common reason sighted for a trustee remotely attending was in the case of an emergency or previously unscheduled board meetings. For instance, a board will sometimes hold a special meeting in response to a decision by a president to retire or accept a new position at a different college or to respond to an identified security concern. In each of those cases, allowing our unpaid, volunteer trustees the ability to have a voice in those conversations is incredibly important. Knowing that most of our trustees are active individuals both within their careers and their communities, House Bill 404 would still allow them to participate if the sudden scheduling of a board meeting on an important topic, conflicts with their other responsibilities.

It is safe to say that while OACC supported this bill a year ago, the Covid-19 pandemic has elevated the need for this flexibility. OACC was appreciative that legislative leaders and the administration agreed to permit our boards to meet completely virtually in HB 197 and we appreciate your consideration to extend this temporary authority beyond December 1. Out of necessity, our boards quickly adopted a number of policies that have proven to be effective and has increased transparency and accessibility to our meetings for the public. In fact, most colleges are reporting a level of engagement with the public at their virtual meetings that was rarely seen before COVID-19. We believe that these experiences will serve as a roadmap for how to permanently modernize how our colleges conduct business within Ohio's open meeting and sunshine laws.

In conclusion, OACC believes that HB 404 will protect public participation and access, while helping provide a permanent response to modernize how official business will be conducted moving forward. Allowing trustees to conduct their business remotely, when necessary, is more important now than ever. The COVID-19 pandemic has expedited the need for our colleges to identify the technology that will best serve the board culture and community they serve. These past several months have shown that our boards can quickly adopt sound policies that maintains the public trust and even enhances transparency in the decision-making process at each of our colleges.

Once again, thank you for the opportunity to submit this testimony. On behalf of the college trustees and presidents from across Ohio, we strongly urge your support of HB 404.