

General Assembly Passes Legislation Modifying Open Meetings Act as Part of COVID-19 Response

On March 25, 2020, the Ohio General Assembly passed and sent to Governor Mike DeWine Amended, Substitute House Bill 197. Included in the lengthy enactment, in a portion of the Bill which appears at Pages 328 and 329, are provisions which relate to the conduct of public meetings and hearings during the period of the Covid 19 emergency. By the terms of the Bill, these changes are to be in effect during the period of the emergency which was declared by Governor DeWine under Executive Order 2020-01D issued on March 9, 2020, but not beyond December 1, 2020, if the period of the emergency extends beyond that date. On March 27, Governor DeWine signed the Bill into law. The Bill had been declared by the General Assembly to be an emergency measure, and, upon its signing, its provisions immediately became law.

The enactment provides that, during its effective period, members of public bodies may hold and attend meetings, and conduct hearings by means of teleconference, video conference, or any other similar electronic technology. The term "hearing" is defined as any hearing under R.C. 109.01, or any other hearing at which a person may present written or oral testimony on a matter before the public body. "Public body" and "meeting" have the same respective meanings as are set out in R.C. 121.22.

Members of public bodies are permitted to attend such meetings by means of the electronic technology which is permitted under the provisions and which the public body chooses to use. Notwithstanding the requirements of R.C. 121.22(C), members attending in this manner are to be considered present, and shall be counted toward the presence of a quorum and permitted to vote on matters coming before the public body during its session. Any resolution, rule, or other formal action of the body taken or adopted by the public body during such a session is to have the same effect as if it had been taken or adopted in an open meeting or hearing.

The public body is required to give notice of the meeting at least twenty-four hours before its occurrence to the media that have requested notification of the meetings of the public body, and to parties required to be notified of the hearing. Notice is to be completed by reasonable methods by which any person may determine the time, location, and manner of conduct of the meeting or hearing. In an emergency situation, the public body is to give similar notices which must include not only time, place, and manner of conduct, but also the purpose of the meeting or hearing. As is required by existing law, notices of emergency meetings should be given as soon as it is practicable to do so.

The public body is required to provide the public access to the discussions and deliberations of the body which are conducted by means of electronic technology to the extent that the public would have been able to attend an in-person meeting or hearing of the body, and commensurate with the method which the public body is utilizing. Examples of the methods of affording public access which are cited in the Bill include live-streaming by means of the internet; local radio, television, cable, or public access channels, call-in information incident to a teleconference, and any other similar electronic means. The public body is to ensure that the public is able to hear the discussions of each member of the public body, whether that member is participating in person or electronically. When it is conducting a public hearing, the public body also must utilize electronic equipment and technology which is widely available to the general public and which permits the public to converse with witnesses, and to receive documentary testimony and physical evidence.

By the terms of the Bill all of the existing provisions of R.C. 121.22 and R.C. Chapter 119 which are not in conflict with provisions of the new enactment continue in full effect.

Questions related to the enactment may be directed to Mark Altier, Director of Open Government, mark.altier@ohioattorneygeneral.gov, or (937) 603-8645.