June 10, 1993

OPINION NO. 93-012

The Honorable George V. Voinovich
Governor of Ohio
77 South High Street
Columbus, Ohio 43266-0601

Dear Governor Voinovich:

You have requested an opinion concerning the applicability of the Open Meetings Act, R.C. 121.22, to the activities of the Industrial Commission. Your letter also mentions R.C. 4121.10 and R.C. 4121.36, which apply only to the Industrial Commission, and which separately address the manner in which the Commission is to conduct its business. Specifically described in your letter are three areas of concern regarding the Industrial Commission's activities - keeping records of Commission meetings, giving notice of such meetings, and determining whether personnel decisions, the issuance of contracts, and the adoption of budgets must occur in open meetings of the Commission.

I. Requirements of R.C. 121.22 Generally

A. Meetings of Public Bodies Must Be Open

The fundamental requirement of R.C. 121.22 is that, "[a]ll meetings of any *public body* are declared to be public meetings open to the public at all times." R.C. 121.22(C) (emphasis added). Failure to comply with the open meeting requirements of R.C. 121.22 results in the invalidation of certain actions of the public body. R.C. 121.22(H).[1] Unless excepted by statute, any entity that

---

[1] R.C. 121.22(H) states:

> A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if

constitutes a "public body," as defined in R.C. 121.22(B)(1), is subject to the provisions of the Open Meetings Act.

B. Record of Meetings

Pursuant to R.C. 121.22(C): "The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) of this section." Thus, R.C. 121.22(C) requires each public body promptly to prepare minutes of its meetings and to make those minutes open to the public.

C. Notice Requirements of R.C. 121.22

R.C. 121.22 requires that each "public body" provide for notice of its meetings,[2] as follows:

> (F) Every public body shall, by rule, 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. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.
> The rule shall provide that any person may, upon request and payment of a reasonable fee, obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provision for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

Thus, a public body is required to establish, by rule, a 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." Pursuant to R.C. 121.22(H), "[a] resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section."

D. Executive Sessions Authorized by R.C. 121.22

> the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

[2] R.C. 121.22(B)(2) defines the word "meeting," as used in R.C.121.22, as meaning, "any prearranged discussion of the public business of the public body by a majority of its members."

R.C. 121.22(G) authorizes a public body to discuss certain matters in executive session, from which the public may be excluded. *See generally Thomas v. Board of Trustees*, 5 Ohio App. 2d 265, 268, 215 N.E.2d 434, 436 (Trumbull County 1966) ("An executive session of a governmental body is normally one which is limited to the members of the governmental body and such other persons as are specifically invited by such body to attend the meeting"). Pursuant to R.C. 121.22(G), executive sessions may be held "only at a regular or special meeting" and "for the sole purpose of the consideration of" any of the six matters set forth in R.C. 121.22(G), which may be described generally as personnel matters, the purchase or sale of property, the discussion of litigation with the attorney for the public body, collective bargaining matters, matters required to be kept confidential by federal or state law, and details of security arrangements. As required by R.C. 121.22(H), however, any resolution, rule, or formal action regarding such matters must be adopted by the public body in an open meeting. *See, e.g., Angerman v. State Medical Board*, 70 Ohio App. 3d 346, 591 N.E.2d 3 (Franklin County 1990) and *State ex rel. Humphrey v. Adkins*, 18 Ohio App. 2d 101, 247 N.E.2d 330 (Montgomery County 1969).

II. Application of R.C. 121.22 to "Public Bodies"

A. Public Bodies Generally

For purposes of R.C. 121.22, the term "public body" means, in part, "*any* board, *commission*, committee, or similar decision-making body of a state agency, institution, or authority." R.C. 121.22(B)(1) (emphasis added). As stated in R.C. 121.22(A): "This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted by law."[3] Based upon this statement of legislative intent, the definition of "public body" has been broadly interpreted to include all bodies of public officials. As stated in 1992 Op. Att'y Gen. No. 92-065 at 2-268: "Generally, where, by law, the membership of a particular entity is comprised of public officials or where its duties are of a public nature, the entity is a public body for purposes of R.C. 121.22."

B. Industrial Commission as a Public Body

The duties of the Industrial Commission are set forth in various chapters within R.C. Title 41. A number of the Commission's duties are described in R.C. 4121.131, which states:

> The industrial commission, in addition to the specific powers, authority, and duties vested in and imposed upon it by this chapter and [R.C. Chapters 4123, 4127, and

---

[3] R.C. 121.22(D) and (E) specify a number of activities conducted by public bodies that are excepted from the open meeting requirements of R.C. 121.22. None of these exceptions, however, include any of the activities of the Industrial Commission. *See also* R.C. 121.22(G) (listing matters that may be considered in executive session).

> 4131], shall commute payments of compensation and determine applications for final settlements as provided in [R.C. 4123.64 and .65], determine claims for additional award under [Ohio Const. art. II, §35], and render final determinations of disputed claims as provided in [R.C. 4123.516, .517, and .518], except as provided in [R.C. 4123.519].

Additional powers and duties of the Commission are described in R.C. 4121.03(C), which states in part:

> (C) The Commission shall:
> (1) Employ, promote, supervise, and remove all employees as needed in connection with the performance of its duties under this chapter and [R.C. Chapters 4123, 4127, and 4131] and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission....
> (2) Establish the compensation of staff hearing officers and their immediate supervisors and take whatever steps are necessary to achieve adequate compensation for other hearing officers.
> (3) In conjunction with the workers' compensation board, have the right of approval over all investments made by the administrator of workers' compensation.
> (4) Establish a standardized training program and performance evaluation procedure for all of its district and staff hearing officers. The program shall include, but is not limited to, formal training in legal and medical matters under the workers' compensation law, on-the-job training, and continuing education....
> (D) The commission may secure for itself facilities, equipment, and supplies necessary to house itself, and employees, and files and records under its control and to discharge any duty imposed upon it by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the commission, separately from the budget prepared by the administrator of workers' compensation, shall prepare and submit to the office of budget and management a budget for each biennium according to [R.C. 101.55 and R.C. 107.03]. The budget submitted shall cover the costs of the commission, regional boards of review, staff hearing officers, and district hearing officers in the discharge of any duty imposed upon the commission by law.
> ....
> (F) *The commission is responsible for the adjudication of claims and the establishment of adjudicatory policy under this chapter and [R.C. Chapters 4123, 4127, and 4131]*, except for those administrative matters within the jurisdiction of the bureau of workers' compensation, the administrator of workers' compensation, and the workers' compensation board under those chapters. (Emphasis added.)

See also R.C. 4121.122, .34, and .35 (responsibilities concerning the Commission's employees); R.C. 4121.38 (responsibility for, *inter alia*, development of policy concerning medical matters).

The Industrial Commission is organized under R.C. 4121.02(A), which states in part: "The Industrial Commission shall be composed of five members to be appointed by the governor with the advice and consent of the senate." Further, each member is appointed to serve a six-year term of office. As stated by the court in *State ex rel. Landis v. Board of Commissioners*, 95 Ohio St. 157, 159-60, 115 N.E. 919, 919-920 (1917):

> The usual criteria in determining whether a position is a public office are durability of tenure, oath, bond, emoluments, the independency of the functions exercised by the appointee, and the character of the duties imposed upon him....The chief and most-decisive characteristic of a public office is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law. If official duties are prescribed by statute, and their performance involves the exercise of continuing, independent, political or governmental functions, then the position is a public office and not an employment. ...It is no longer an open question in this state that "to constitute a public office, *** it is essential that certain independent public duties, *a part of the sovereignty of the state*, should be appointed to it by law." (Emphasis in original.)

Thus, in carrying out the statutorily-defined responsibilities of the Commission, as outlined above, the members are public officials.

From the foregoing, it is clear that the Industrial Commission is a "public body" for purposes of R.C. 121.22. The members of the Industrial Commission are public officials. Further, it is a state commission, created by statute, and charged with the performance of duties of a public nature. *See State ex rel. Kildow v. Industrial Commission*, 128 Ohio St. 573, 192 N.E. 873 (1934) (syllabus, paragraph seven) (referring to the Industrial Commission as a state agency). As a public body, the Industrial Commission is, therefore, subject to the provisions of R.C. 121.22.[4] S*ee generally* 1978 Op. Att'y Gen. No. 78-059 (syllabus) (concluding that the Internal Security Committee, created by the Industrial Commission and the Administrator of Workers' Compensation under R.C. 4121.122(D), is a public body for purposes of R.C. 121.22).

---

[4] The Industrial Commission has adopted 7 Ohio Admin. Code 4121-1-02 which states that all meetings of the Commission, "unless the subject matter...[thereof] is specifically excepted by law," are open to the public. Rule 4121-1-02 also provides for notice to the public of such meetings.

III. Special Provisions Governing Industrial Commission

Although the Industrial Commission is a "public body," as defined in R.C. 121.22(B)(1), and is, therefore, subject to the open meeting requirements of R.C. 121.22, you question whether R.C. 4121.10 and R.C. 4121.36, which specifically relate to various activities of the Industrial Commission, may except certain of the Commission's activities from the application of R.C. 121.22.

R.C. 4121.10

R.C. 4121.10 states in pertinent part:

> The industrial commission shall be in *continuous session* and open for the transaction of business during all business hours of every day excepting Sundays and legal holidays. *The sessions of the commission shall be open to the public and shall stand and be adjourned without further notice thereof on its record. All of the proceedings of the commission shall be shown on its record, which shall be a public record*, and all voting shall be had by calling the name of each member of the industrial commission by the secretary, and each member's vote shall be recorded on the record as cast. The commission shall keep a separate record of its proceedings relative to claims coming before it for compensation for injured and the dependents of killed employees, which record shall contain its findings and the award in each such claim for compensation considered by it, and in all such claims the reasons for the allowance or rejection thereof shall be stated in said record. (Emphasis added.)

The express language of R.C. 4121.10, thus, requires not only that the proceedings of the Industrial Commission be open to the public, but also that the Commission keep a record of all of its proceedings, which record "shall be a public record."[5] *See generally Dorrian v. Scioto Conservancy District*, 27 Ohio St. 2d 102, 271 N.E.2d 834 (1971) (in the absence of a contrary expression of legislative intent, the use of the word "shall" in a statute is to be construed as mandatory).

It has been suggested that the portion of R.C. 4121.10 stating that the "sessions" of the Commission "shall stand and be adjourned without further notice thereof on its record" should allow the Industrial Commission to convene meetings for the conduct of Commission business without compliance with the notice requirements of R.C. 121.22(F). In ascertaining the meaning of this phrase, it is necessary to keep in mind the following rule of statutory construction:

> The primary duty of a court in construing a statute is to give effect to the intention of the Legislature enacting it. In determining that intention, a court should consider the language used and the apparent purpose to be accomplished, and then such a

---

[5] Pursuant to R.C. 149.43(B): "All public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hour."

> construction should be adopted which permits the statute and its various parts to be construed as a whole and gives effect to the paramount object to be obtained. (Citation omitted.)

Humphrys v. Winous Co., 165 Ohio St. 45, 49, 133 N.E.2d 780, 782-83 (1956). Accordingly, it is necessary to read R.C. 4121.10 in its entirety to ascertain the meaning of each of its parts.

As stated above, the General Assembly spoke in mandatory terms in the enactment of R.C. 4121.10, requiring that all of the Commission's proceedings be open to the public and that the Commission make a public record of all such proceedings. In so doing, the General Assembly clearly expressed its intent that the public have every opportunity to inform itself of the activities of the Industrial Commission. Accordingly, since a reading of R.C. 4121.10 that would except the Industrial Commission from the requirement of providing notice to the public of its meetings would serve only to hinder the clearly expressed purpose behind R.C. 4121.10, *i.e.*, that all of the Commission's activities be open to public view, it appears that such reading was not intended by the General Assembly.

Instead, the meaning of R.C. 4121.10 becomes apparent by examination of the use of the word "session" in that statute. The first sentence of R.C. 4121.10 states that the Commission shall be in "continuous session" and open for the transaction of business during all business hours of every day, excepting Sundays and legal holidays. Further, it is the "sessions" of the Industrial Commission that, although required to be open to the public, "shall stand and be adjourned without further notice thereof on its record." R.C. 4121.10.

In the absence of a statutory definition of the word "sessions," as used in R.C. 4121.10, it is presumed that the General Assembly intended this word to be given its common meaning. *See generally* R.C. 1.42 (stating, in part: "[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage"). *Webster's New World Dictionary* 1302 (2d college ed. 1978) defines the word "session" as meaning, in part: "1. *a)* the sitting together or meeting of a group; assembly, as of a court, legislature, council, etc. *b)* a continuous, day-to-day series of such meetings *c)* the term or period of such a meeting or meetings...." Thus, although the word "session" is sometimes used as a synonym for the word "meeting," it is also used to refer to a period of time when a series of such meetings are, or may be, held.

R.C. 4121.10 requires the Industrial Commission to be in "continuous session." It would, therefore, be inappropriate to read the word "session," in that context, as the equivalent of a "meeting," as defined in R.C. 121.22(B)(2). Such a reading would require the Commission to be convened formally for the transaction of Commission business at all times, without interruption or break. Instead, it appears that, by requiring the Industrial Commission to be in "continuous session," the General Assembly intended only that the Commission be available to be formally convened in a meeting at any time throughout the year.

Given this interpretation of the word "session[s]," as referring generally to the time in which the Industrial Commission is *available* to convene as a group, the portion of R.C. 4121.10 stating

that the sessions of the Commission "shall stand and be adjourned without further notice thereof on its record" merely dispenses with the need to make the convening and adjourning of the Commission's session part of its official record of proceedings. Accordingly, this part of R.C. 4121.10 does not create an exception from the notice requirements of R.C. 121.22 with which the Industrial Commission, as a public body, must otherwise comply.

R.C. 4121.36

Your opinion request also mentions R.C. 4121.36 which further describes the powers and duties of the Industrial Commission, as follows:

> (A) The industrial commission shall adopt rules as to the conduct of *all hearings before the commission or its staff hearing officers, the regional boards of review, and district hearing officers and the rendering of a decision.* These rules shall provide for at least the following steps or procedures:
> (1) Adequate notice to all parties and their representatives;
> (2) A public hearing;
> (3) Written decisions;
> (4) Impartial assignment of staff hearing officers by the chief hearing officer;
> (5) Publication of a docket;
> (6) The securing of the attendance or testimony of witnesses.
> (B) Any decision by a district hearing officer, a regional board of review, a staff hearing officer, or the commission shall be in writing and contain the following elements:
> (1) A concise statement of the order or award;
> (2) A notation as to notice provided and as to appearance of parties;
> (3) Signatures of each commissioner, regional board member, or appropriate hearing officer, verifying his or her vote;
> (4) Description of the part of the body and nature of the disability recognized in the claim.
> (C) All matters which, at the request of one of the parties or on the initiative of the administrator of workers' compensation and any commissioner, are to be expedited, shall require at least forty-eight hours notice, a public hearing, and a statement in any order of the circumstances that justified such expeditious hearings.
> (D) *All meetings* of the commission, the regional boards of review, and district or staff hearing officers *shall be public* with adequate notice, including if necessary, to the claimant, the employer, their representatives, and the administrator. Confidentiality of medical evidence presented at hearing does not constitute a ground sufficient to relieve the requirement of public hearing, but the presentation of privileged or confidential evidence shall not create any greater right of public inspection of evidence than presently exists.
> (E) All original memorandums, orders, and decisions of the commission shall be compiled in a journal to be made available to the public with sufficient indexing to allow orderly review of documents. The journal shall indicate the vote of each

> commissioner.
> (F) All orders, rules, and memoranda, and decisions of the commission shall contain the signatures of three of the five commissioners and *shall state whether adopted at a meeting of the commission, or by circulation to individual commissioners*. Any facsimile or secretarial signature, initials of commissioners, members of the regional board, and delegated hearing officers, and any printed record of the "yes" and "no" vote of a commission or regional board member or of a district or staff hearing officer is invalid. (Emphasis added.)

It has been suggested that the portion of R.C. 4121.36(F) referring to the adoption of orders, rules and memoranda of the Commission "by circulation to individual members," as opposed to adoption at one of its meetings, creates an exception to the requirement of R.C. 121.22 that all resolutions, rules, or formal actions of a public body be adopted in an open meeting of that public body.

Reading R.C. 4121.36 in its entirety, it appears that the procedures dictated by that section apply only to "hearings before the commission or its staff hearing officers, the regional boards of review, and district hearing officers and the rendering of a decision," R.C. 4121.36(A), and not to the other gatherings of the Commission where the business of the Commission is conducted. Although division (D) of R.C. 4121.36 does refer to the "meetings of the commission, the regional boards of review, and district or staff hearing officers," it is the sole instance in which reference to a "meeting," rather than a "hearing" is made; the remainder of the division, as well as the remainder of the statute as a whole, concerns the Commission's conduct of its adjudicatory functions in hearings before the Commission, the regional boards of review, and district or staff hearing officers. It appears, therefore, that the word "meetings," as used in R.C. 4121.36(D), was not intended to refer to meetings, as defined in R.C. 121.22(B)(2), for purposes of the open meetings law. The notice provisions of R.C. 4121.36(D), therefore, govern only hearings conducted by the Commission in accordance with R.C. 4121.36.[6]

Since R.C. 4121.36 is a more specific statute, governing hearings conducted under that statute, it operates as an exception to the provisions of R.C. 121.22 which is otherwise applicable to the Industrial Commission in performing its non-adjudicatory functions. *See generally Humphrys v.*

---

[6] Such a reading of R.C. 4121.36 would be consistent with R.C. 121.22. Although R.C. 121.22 does not expressly except from the definition of meetings those gatherings of a public body in which hearings are conducted, the courts have long recognized such an exception. *See, e.g., Matheny v. Frontier Local Board of Education*, 62 Ohio St. 2d 362, 405 N.E.2d 1041 (1980) (concluding that a formal hearing mandated by statute does not constitute a "meeting" for purposes of R.C. 121.22); *Angerman v. State Medical Board*, 70 Ohio App. 3d 346, 351, 591 N.E.2d 3, 7 (Franklin County 1990) ("[n]or does R.C. 121.22(A) include adjudicatory hearings within the meaning of _meeting_"); and *Scherer v. Hahn*, 52 Ohio App. 3d 8, 12, 556 N.E.2d 200, 205 (Franklin County 1988) ("even though a public body must open all its meetings to the public, there is a category of gatherings, called _hearings,_ which do not have to be public").

Winous Co., 165 Ohio St. at 48, 133 N.E.2d at 782 ("[i]t is a well settled rule of statutory construction that where a statute couched in general terms conflicts with a specific statute on the same subject, the latter must control"). Thus, in the conduct of its adjudicatory functions under R.C. 4121.36, the Industrial Commission may take final action with respect to the orders, rules, memoranda, and decisions related to such hearings either in a hearing or "by circulation to individual commissioners."

IV. Summary of Provisions of R.C. 121.22 Applicable to the Industrial Commission

Your concerns about the procedures applicable to the Industrial Commission's conduct of specific portions of its business appear to be addressed in large part by the finding that the Industrial Commission is a "public body" for purposes of R.C. 121.22, and, as such, is subject to the provisions of that statute, but for the exception provided for in R.C. 4121.36.[7] Your opinion request specifically asks about the keeping of records of, and giving proper notice of, Commission meetings. As a public body, the Industrial Commission is required to comply with the notice provisions set forth in R.C. 121.22(F), *see generally* note 4, *supra*, and the record keeping requirements described in R.C. 121.22(C). R.C. 4121.36 does, however, prescribe specific procedures applicable to the hearings conducted by the Commission under that statute; to the extent R.C. 4121.36 may conflict with the provisions of R.C. 121.22, the provisions of R.C. 4121.36 would prevail in the Commission's conduct of such hearings.

Your opinion request also asks whether the Industrial Commission may discuss certain portions of the Commission's business, specifically personnel decisions, the issuance of contracts, and the adoption of budgets, outside of a public meeting. Because there are no statutes outside of R. C. 121.22 governing the manner in which the Industrial Commission may discuss these matters, the Commission must, in discussing these matters, comply with R.C. 121.22.

As mentioned above, R.C. 121.22(G) authorizes a public body to discuss certain matters in executive session, stating in part:

> *The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters*:
> (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing.... If a public body holds an executive session pursuant to

---

[7] Since your opinion request mentions only R.C. 4121.10 and R.C. 4121.36, this opinion does not address whether there may be other statutory exceptions to the application of R.C. 121.22 to the activities of the Industrial Commission.

> division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.
> (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest....
> ....
> (3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;
> (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
> (5) Matters required to be kept confidential by federal law or rules or state statutes;
> (6) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.
> If a public body holds an executive session to consider any of the matters listed in division (G)(2) to (6) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session. (Emphasis added.)

Thus, to the extent that the matters you describe may fall within any of the six categories described in R.C. 121.22(G), the Industrial Commission may conduct its deliberations regarding such matters in executive session, subject to R.C. 121.22(H), which requires that any resolution, rule, or formal action of any kind must be adopted in an open meeting of the public body.

V. Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. The Industrial Commission is a "public body," as defined in R.C. 121.22(B)(1), and is, therefore, subject to the open meeting requirements of R.C. 121.22.

2. R.C. 4121.36 provides that the orders, rules, memoranda, and decisions of the Industrial Commission with respect to hearings conducted under R.C. 4121.36 may be adopted either in a meeting of the Commission or "by circulation to individual commissioners," and thereby establishes an exception to the requirement of R.C. 121.22 that the Industrial Commission adopt all resolutions, rules, or formal actions in an open meeting.

Respectfully,

LEE FISHER
Attorney General

June 10, 1993

The Honorable George V. Voinovich
Governor of Ohio
77 South High Street
Columbus, Ohio 43266-0601

SYLLABUS: 93-012

1. The Industrial Commission is a "public body," as defined in R.C. 121.22(B)(1), and is, therefore, subject to the open meeting requirements of R.C. 121.22.

2. R.C. 4121.36 provides that the orders, rules, memoranda, and decisions of the Industrial Commission with respect to hearings conducted under R.C. 4121.36 may be adopted either in a meeting of the Commission or "by circulation to individual commissioners," and thereby establishes an exception to the requirement of R.C. 121.22 that the Industrial Commission adopt all resolutions, rules, or formal actions in an open meeting.