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## Open Meetings: Where Are We Now?

Ohio's Open Meetings Act requires public bodies to conduct meetings "in person," with members needing to be physically present in order to count as part of a quorum or to vote on matters before the body.

But the COVID-19 pandemic and the resulting restrictions imposed on public gatherings made it impractical for Ohio public bodies to comply with the in-person meeting requirement during the health emergency declared by Gov. Mike DeWine and implemented by the Ohio Department of Health.

On March 25, the General Assembly approved House Bill 197, a lengthy measure dealing with myriad topics related to the COVID-19 emergency. Two days later, the governor signed the legislation, which, as an emergency measure, took effect immediately. Included in the new law are sections addressing public meetings.

H.B. 197 permits public bodies to have virtual meetings, with members attending virtually. In this emergency context, members are not required to be physically present to be counted toward a quorum or to vote on matters being considered.

The law requires a virtual meeting to be conducted through the use of some electronic technology that allows member participation and public access. Teleconferences and video conferences are mentioned as acceptable means of member participation, with live streaming through the internet; local radio, TV, local cable or public-access channels; or teleconference call-ins deemed as acceptable means for providing public access to the proceedings.

In both cases, similar electronic means are also acceptable. Any actions taken during a properly conducted virtual meeting have the same effect as those taken during an in-person meeting.

Since the law's enactment, a wide variety of electronic technologies have been used to conduct virtual meetings. These efforts have been mostly very successful – a valuable tool for facilitating governmental functions that also complies with the emergency restrictions and protects public health and safety.

With the state now gradually reopening, public bodies have begun contemplating a return to in-person gatherings. This traditional method of meeting, after all, is cheaper and easier to arrange, and it affords the best opportunity for interaction among members of public bodies and their constituents.

The piecemeal approach being used by the governor and the Ohio Department of Health in loosening restrictions imposed under the emergency orders has created some confusion.

The Attorney General's Office has been advised by public health officials that the 10 attendee limitation on public meetings continues to remain in effect, and that this restriction continues to be applicable to meetings and hearings of public bodies. In planning for meetings, either virtual or in person, public bodies must consider the requirements of the Ohio Open Meetings Act as well as the directives issued under the emergency order.

The Attorney General's Office has been asked when the 10-person rule might be eased. We have been told that such a change may occur at some time in the future, depending on the situation of the virus, but there are no definitive plans for such a change at this time.

We also have been asked whether public bodies may still conduct virtual meetings according to the requirements of H.B. 197. The answer is yes.

H.B. 197 remains in effect during the effective period of the emergency declaration or until Dec. 1, 2020, if the declaration continues beyond that date. As such, the measure's provisions permit public bodies to conduct virtual meetings until the emergency declaration is rescinded; Dec. 1, 2020, comes and goes; or the General Assembly amends the law.

The Attorney General's Office continues to monitor the situation for additional developments. The business of government has never been easy, and, in these trying times, it has been particularly difficult. Please let us know if we can offer any support.

If you have questions related to this issue or to any other matter involving Open Meetings or Public Records, you may direct them to Mark Altier, Director of Open Government, Office of the Ohio Attorney General, at 937-603-8645 or via email at [mark.altier@ohioattorneygeneral.gov](mailto:mark.altier@ohioattorneygeneral.gov).

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