July 10, 2026

The Honorable Dennis Watkins
Trumbull County Prosecuting Attorney
160 High Street N.W., Fourth Floor
Warren, Ohio 44481

SYLLABUS: 2026-006

R.C. 121.221 permits the board of directors and the solid-waste management policy committee of a joint solid-waste district to conduct their meetings or hearings virtually, except when the meetings or hearings involve a vote to approve a major nonroutine expenditure, a significant hiring decision, or a purpose to propose, approve, or vote on a tax issue or increase.

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OPINION NO. 2026-006

The Honorable Dennis Watkins
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160 High Street N.W., Fourth Floor
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Dear Prosecutor Watkins,

You have requested my opinion regarding the ability of certain public bodies to hold virtual meetings in accordance with R.C. 121.221. You have framed your questions as follows:

1. Can the board of directors of a joint solid-waste district conduct its meetings virtually in accordance with R.C. 121.221?

2. Can the solid-waste management policy committee conduct its meetings virtually in accordance with R.C. 121.221?

For the reasons that follow, I conclude that R.C. 121.221 permits the board of directors and the solid-waste management policy committee of a joint solid-waste district to conduct their meetings or hearings virtually, except when the meetings or hearings involve a vote to approve a major nonroutine expenditure, a significant hiring decision, or a purpose to propose, approve, or vote on a tax issue or increase.

I

Each county in Ohio must either have its own solid-waste district or participate in a joint solid-waste district. R.C. 343.01(A) and 3734.52. A solid-waste district is responsible for ensuring "the safe and sanitary management of solid wastes" within its territory. R.C. 3734.52(A). This responsibility is accomplished primarily through preparing and implementing a solid-waste management plan approved by the Ohio EPA. *See* R.C. 3734.54 and 3734.55.

The board of directors for a joint solid-waste district consists of the county commissioners from each participating county. R.C. 343.01(B). Thus, for the Geauga-Trumbull Solid Waste District, the six county commissioners from the two counties constitute the district's board.

R.C. 343.01 sets forth the board's powers and duties. The board controls and manages the joint district and may appoint employees, set their compensation, and oversee district operations. R.C. 343.01(B). It may also acquire property and facilities for solid-waste management. R.C. 343.01(C); 1980 Ohio Atty.Gen.Ops. No. 80-042. In addition, the board may adopt and enforce rules regarding "the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district." R.C. 343.01(G)(2); *accord* 3734.53(C)(2).

Every district must also have a solid-waste management policy committee. R.C. 3734.54(B). The Geauga-Trumbull Solid Waste District has a fifteen-member policy committee appointed by the district's board of directors.[1] The policy committee is responsible for preparing and establishing a solid-waste management plan. R.C. 3734.54(A). The plan must follow a format prescribed by the Ohio EPA and demonstrate the district's ability to meet state solid waste objectives over a ten-year planning period. R.C. 3734.53(A); *see also* 1994 Ohio Atty.Gen.Ops. No. 94-047, at 2-237 to 2-238 (summarizing the relevant law). It must address statutory and EPA-mandated components, including inventories of waste sources and facilities, population

[1] R.C. 3734.54(C) requires that the policy committee include the following seven members from each participating county: the president of the board of county commissioners or a designee; the chief executive officer of the county's largest municipality; a township representative selected by township trustees; the health commissioner of the county's largest health district or a designee; a representative of industrial, commercial, or institutional waste generators; a public representative.

and waste projections, implementation schedules, recycling programs, and fee schedules. R.C. 3734.53.

The policy committee may propose new or revised solid waste disposal or generation fees as part of the solid-waste management plan before the plan's adoption or at any time afterward. R.C. 3734.57(B) and 3734.573. The plan and any proposed fee schedule must then be ratified by the district's constituent communities after the committee conducts a public hearing. R.C. 3734.55(A) and 3734.57(B).

II

A

Ohio's Open Meetings Act allows the public to observe government decision-making in action. By its terms, the statute is to be read broadly in favor of openness. R.C. 121.22(A).

R.C. 121.221 governs virtual meetings and hearings of public bodies. The terms used in this statute generally have the same meaning as in the Open Meetings Law. *See* R.C. 121.22(B) and 121.221(A). The statute prescribes the procedures for public bodies to conduct meetings or hearings via videoconferencing or similar technology, including rules for determining members' presence and a quorum. R.C. 121.221(B). Before conducting any meetings or hearings by virtual means, the public body must adopt a policy regarding public notice, access, roll-call votes, and subject matter restrictions. R.C. 121.221(C).

Your opinion request primarily concerns the restrictions on virtual meetings in R.C. 121.221. Division (B)(5) of the statute prohibits a public body from holding meetings by virtual means if any of the following apply:

1. The meeting or hearing involves a vote to approve a "major nonroutine expenditure" or "significant hiring decision" (as those terms are defined by the public body's virtual meeting policy);

2. The meeting or hearing involves a purpose to propose, approve, or vote on a tax issue or tax increase;

3. The public body's members are compensated for their service (excluding reimbursement of actual expenses); or

4. The public body's members are "elected by the general public to their positions as members."

These restrictions can be divided into two categories: (1) types of public bodies that cannot meet virtually ("membership-based restrictions") and (2) subject matters that may not be decided in a virtual meeting ("subject-matter restrictions"). These distinctions set the stage for analyzing how R.C. 121.221 applies to joint solid-waste districts and their governing boards.

B

Your initial question asks whether a joint solid waste district's board of directors may conduct its meetings virtually. The answer hinges on whether any of the restrictions in R.C. 121.221(B)(5) apply. I conclude the restrictions generally do not apply to the board.

First, R.C. 121.221(B)(5)(a)(iv) prohibits a public body from meeting by virtual means if its members are compensated for their service, "[e]xcluding expense reimbursements for actual expenses incurred while fulfilling their duties." The laws governing solid-waste districts, R.C. Chapters 343 and 3734, do not authorize compensation for members of a joint solid-waste district board of directors. *See* 1996 Ohio Atty.Gen.Ops. No. 96-053 (regarding compensation for trustees of a regional solid-waste management district). Although an elected county commissioner, also serving as a board member of a joint solid-waste district, receives a salary for serving as a county commissioner, the member receives no separate, additional compensation for serving on the district's board of directors.

Second, R.C. 121.221(B)(5)(a)(v) prohibits a public body from meeting virtually if its members are "elected by the general public to their positions as members." The specificity of this wording matters; the restriction applies only if a person is elected to the *specific* positions in question. As noted above, county commissioners from each county serve on the joint solid-waste district's board of directors. R.C. 343.01(B). But county commissioners are elected by the general public to serve on the board of *county commissioners*. *See* R.C. 305.01. Those commissioners then serve on other boards and commissions by virtue of their office, i.e. *ex officio*. *See, e.g.*, R.C. 135.341 (county investment advisory committee), 713.22 (county planning commission), and 3709.03 (health district advisory council). The individual county commissioners are not directly elected to the joint solid-waste district's board of directors, and the joint board operates as a separate, statutory public entity. *See* 1994 Ohio Atty.Gen.Ops. No. 94-021, at 2-95; 1989 Ohio Atty.Gen.Ops. No. 89-102, at 2-493. Thus, R.C. 121.221(B)(5)(a)(v) does not apply to the board of directors of a joint solid-waste district.[2]

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[2] Because the board of directors of a joint solid-waste district brings together the county commissioners of each participating county, one could also argue that its meetings qualify as multi-party meetings, which are not subject to the membership-based restrictions in R.C. 121.221. *See* R.C. 121.221(B)(5)(b). However, the board of directors is a distinct public body that operates independently from the boards of county commissioners. *See* 1994 Ohio

Turn now to the subject-matter restrictions in R.C. 121.221. A public body may not meet virtually to approve a "major nonroutine expenditure" or "significant hiring decision." R.C. 121.221(B)(5)(a)(i) and (ii). The statute does not define those terms, but it requires the public body's virtual meeting policy to do so. R.C. 121.221(B)(3)(e)(i) and (ii). A joint solid-waste district board is responsible for the district's budget and staffing decisions. R.C. 343.01(B) and (C) and 3734.574(E); *see also* 1992 Ohio Atty.Gen.Ops. No. 92-044. Thus, depending on how the board's virtual meeting policy defines 'major nonroutine expenditures' and 'significant hiring decisions,' an in-person meeting may be required when the board votes on major expenses, such as capital or other significant projects, or on hiring senior staff, such as a district director. R.C. 121.221(B)(3)(e) and (5)(a)(i) and (ii).

The statute also bars a public body from proposing, approving, or voting on a tax issue or tax increase in a virtual meeting. R.C. 121.221(B)(5)(a)(iii). That restriction is largely irrelevant here, however, because a solid-waste district is not an independent taxing authority. *See* R.C. 5705.01(C). As discussed below, the solid-waste management policy committee—not the board of directors—is responsible for establishing the

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Atty.Gen.Ops. No. 94-021, at 2-95; 1989 Ohio Atty.Gen.Ops. No. 89-102, at 2-493.

district's waste management fees. R.C. 3734.57(B) and 3734.573.

One additional statutory provision governing solid-waste districts merits brief mention. The solid-waste district's board of directors must conduct a public hearing whenever it intends to designate certain solid-waste facilities and recycling activities for processing waste. R.C. 343.014(C). Before conducting that hearing, R.C. 343.014(C) directs the board to publish notice of the date, time, and *location* for the hearing. *Id.* This may imply that the hearing should be held in person, but R.C. 121.221(D) states that the virtual meetings authorization "applies notwithstanding any conflicting provision of the Revised Code." Because the virtual meetings law was enacted more recently, the general 'notwithstanding' clause supersedes the location-specific requirement in R.C. 343.014(C). *See* 2024 Sub.H.B. No. 257 (eff. April 9, 2025); R.C. 1.51 and 1.52 (regarding harmonization of conflicting statutes). Still, the board must comply with the procedural requirements for public access in 121.221. Within these parameters, I find that the board of directors of a joint solid-waste district may meet virtually.

C

Your second question asks whether a district's solid-waste management policy committee may meet virtually. As with the board of directors, the answer depends on both the membership-based restrictions and the subject-matter restrictions in R.C. 121.221(B)(5).

As discussed above, R.C. 121.221(B)(5)(a)(iv) prohibits a public body from meeting virtually if its members are "compensated for their position as members," not including actual expense reimbursement. That restriction does not apply to the policy committee because no statute authorizes any compensation for the policy committee members' service. *See generally* R.C. Chapters 343 and 3734. "Whenever it is the General Assembly's intention that individual members of a public board are to be compensated for the time they devote to carrying out the board's statutory responsibilities, it expressly communicates that intention in language that is plain, direct, and unequivocal." 1996 Ohio Atty.Gen.Ops. No. 96-053, at 2-206. Although some policy committee members may receive compensation for other positions they also hold, that does not affect the policy committee's eligibility to meet virtually.

Second, R.C. 121.221(B)(5)(a)(v) prohibits a public body from meeting virtually if its members "are elected by the general public to their positions as members" of the committee. That restriction does not apply here. Only one position on the policy committee is specifically assigned to an elected official—the president of a board of county commissioners. R.C. 3734.54(B)(1) and (C). And that person serves *ex officio* on the policy committee rather than by direct election. Additionally, the law permits a designee of that official to serve instead. R.C. 3734.54(C) also expressly provides that serving on the policy committee "does not constitute holding a public office or position of [public] employment," except for purposes of public ethics law, tort liability, and certain criminal laws. *See* 1992 Ohio Atty.Gen.Ops. No. 92-039 (analyzing a related compatibility question). Thus, the policy committee is not subject to the membership-based restriction in R.C. 121.221(B)(5)(a)(v).

The subject-matter restrictions contained in R.C. 121.221(B)(5)(a)(i) to (iii) may still apply, even though the policy committee has limited statutory duties. Ordinarily, the board of directors—not the policy committee—approves major expenses and hiring decisions. *See* R.C. 343.01. However, the policy committee may "retain consultants … to assist it with preparation of the [solid-waste management] plan." Depending on how the policy committee's virtual meetings policy defines 'major nonroutine expenditures' and 'significant hiring decisions,' an in-person meeting may be required when the committee decides to retain such consultants. *See* R.C. 121.221(B)(5)(a)(i) and (ii) and 3734.54(E).

R.C. 121.221(B)(5)(a)(iii) further prohibits a public body from meeting virtually for the purpose of proposing, approving, or voting on a "tax issue or tax increase." The statute does not define those terms. And the statute does not authorize a public body to define these terms in its virtual meeting policy, as it does for a "major nonroutine expenditure" and "a significant hiring decision."

Under R.C. 1.42, the ordinary meaning of a "tax" applies unless the term has acquired a technical meaning. Even though the policy committee cannot levy traditional taxes on property, income, or sales, it is responsible for establishing, revising, or rescinding waste disposal or generation fees for the district. R.C. 3734.57(B) and 3734.573. The ordinary meaning of "tax" may be broad enough to encompass mandatory assessments of this kind. *See* Black's Law Dictionary (12th Ed. 2024).

Furthermore, case law in certain contexts has supported classifying solid-waste management fees as taxes. *See American Landfill v. Stark/Tuscarawas/Wayne Joint Solid Waste Mgt. Dist.*, 166 F.3d 835, 839-840 (6th Cir. 1999) (treating waste disposal fees as taxes under the federal Tax Injunction Act); *Drees Co. v. Hamilton Twp.*, 2012-Ohio-2370 (applying *American Landfill* to state constitutional law). Absent a statutory definition suggesting a narrower meaning, one could conclude that setting a waste-management fee schedule involves a 'tax issue' within the meaning of R.C. 121.221(B)(5)(a)(iii). However, one of my predecessors addressed a similar issue involving municipal stormwater utility fees. 2015 Ohio Atty.Gen.Ops. No.

2015-020. In that opinion, he advised that determining "[w]hether a charge imposed by a municipal corporation is a fee or a tax is a fact-based inquiry," which depends on "the specific context and characteristics of the charge." *Id.* at paragraph one of the syllabus. That is relevant here because "the opinion rendering function of the Attorney General is not an appropriate forum for making findings of fact." 2004 Ohio Atty.Gen.Ops. No. 2004-022, at 2-186.

No court has yet ruled on the meaning of "tax issue or tax increase" in R.C. 121.221, so I cannot say definitively whether a waste management fee in the factual context here constitutes a tax. Nonetheless, because the Open Meetings Act must be interpreted broadly in favor of openness, prudence suggests exercising caution when choosing whether to meet virtually on this subject-matter. *See* R.C. 121.22(A).

*

In summary, a solid-waste management policy committee is a public body subject to R.C. 121.221, and none of the membership-based restrictions prevent the committee from meeting virtually. The subject-matter restrictions, however, still apply. Therefore, any committee meeting to vote on a major nonroutine expenditure or significant hiring decision, and any meeting or public hearing involving a purpose to propose, approve, or vote on a tax issue, must occur in person.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

> R.C. 121.221 permits the board of directors and the solid-waste management policy committee of a joint solid-waste district to conduct their meetings or hearings virtually, except when the meetings or hearings involve a vote to approve a major nonroutine expenditure, a significant hiring decision, or a purpose to propose, approve, or vote on a tax issue or increase.

Respectfully,

D. ANDREW WILSON
Ohio Attorney General