



04/02/20

Amendment to Ohio's Open Meeting Laws During COVID-19 Emergency

Ohio Gov. Mike DeWine signed House Bill 197, which includes an amendment to Ohio's Open Meeting Laws. Signed March 27, the bill permits public bodies, such as cities and villages, to conduct meetings electronically during the declared public health state of emergency in Executive Order 2020-01D. The amendment expires on Dec. 1 — unless the declared emergency continues beyond that date.

Video Conferencing Permitted

The bill amends the Ohio Revised Code to include section ORC 121.221 establishing criteria for conducting “open” meetings, while limiting the potential for exposure under such circumstances. Specifically, the amendment provides that public bodies may conduct meetings “by means of teleconference, video conference or any other similar electronic technology” so long as the public can “observe and hear” discussions. Importantly, because the language was specifically amended to include the word “observe,” audio teleconferences may be ultimately be insufficient under this amendment.

Tips for Conducting a Public Meeting Via Video Conference

Should a public body elect to proceed via video conference in compliance with Ohio's Open Meeting Laws, some helpful tips include:

1. Conducting a video conference need not include costly expenditures or equipment. Many online services such as Zoom and GoToMeeting allow for video conferencing. Most smartphones, tablets and laptops include a camera feature sufficient to conduct a video conference.
2. Test the platform and equipment to be used prior to hosting a live meeting and make sure all participants have the appropriate login instructions, particularly those who may be less “tech savvy.” It is advisable to have a plan for conducting the session, as background noise, public comment and other distractions may be difficult to control.
3. The amended section likely permits closed executive sessions. Section 121.22(B)(4) states, “[T]he public body shall provide the public access to a meeting [...] under this section that the public would otherwise be entitled to attend [...].”
4. Public access may be accomplished by live-streaming via “the Internet, local radio, television, cable or public access channels” so long as the public can “observe and hear” the discussions and deliberations of the body. This may even include the body's Facebook page.

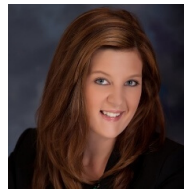


5. Though method of notice is not specified, the amendment requires 24-hour advance notice of a meeting held via video conference. The notice must be “reasonable” and must be provided to any media who have requested notice. An emergency meeting may be held with “immediate notice” to the media.

Public bodies are not required to conduct meetings via video conference. Because public meetings in Ohio are traditionally regarded as a “power of local self-government,” subject to Ohio’s Home Rule power, this amendment is not applicable where a city or village has enacted its own Open Meeting Laws. It is important to review your agency’s charter, ordinance or other rules before hosting a virtual meeting for compliance and necessary updates.

For more information or any questions regarding options for holding meetings, please contact Jessica K. Lomakin.

Disclaimer: BB&K Legal Alerts are not intended as legal advice. Additional facts or future development may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information in this communiqué.



Jessica Lomakin

Of Counsel

(909) 371-9114

jessica.lomakin@bbklaw.com