

Ohio Returns to In-Person Public Meetings

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Categories:

Publications

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On July 1, 2021, the House Bill 404 provision, which permitted public bodies to hold their meetings virtually, officially expired. You might be thinking, "Okay, but where does that really leave us now?" If so, you are not alone.

Background

Prior to the COVID-19 pandemic, Revised Code 121.22 generally governed public meetings. Revised Code 121.22(C) required that members of public bodies be present at meetings in person to vote, be considered present, and count toward a quorum. As a reaction to the pandemic, the Ohio General Assembly first passed House Bill 197, which went into effect on March 27, 2020, and permitted public bodies to hold their meetings virtually.[1] The provision of that bill authorizing virtual meetings was set to expire on December 1, 2020.[2] But the General Assembly then passed House Bill 404, effective November 22, 2020. The bill permitted the continuation of virtual meetings.[3] A third extension was considered, but never passed, and House Bill 404 officially expired on July 1, 2021.

It may seem as though the days of virtual meetings are behind us. However, there are still options for continuing virtual meetings.

Considerations

It's safe to say that, as before the pandemic, members of the public are free to attend public meetings virtually if the public entity chooses to make a virtual platform available. However, public entities are not required to provide online platforms if they are meeting in person.

Things get more complicated for public body members. Almost universally, public body members were required to attend meetings in person — at least if they wanted to vote and count toward the body's quorum — prior to the pandemic. While members of public bodies were permitted to attend and participate in virtual meetings

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during the pandemic, that authorization ended when the House Bill 404 provision expired. Because the Revised Code 121.22 requirements are now applicable again, members of public bodies must go back to attending meetings in person, at least for now, if they want to participate.

Arguably, however, the Home Rule Amendment authorizes charter municipalities to permit their own virtual meetings. The Home Rule Amendment (Section 3, Article XVIII) of the Ohio Constitution grants Ohio municipalities the authority to exercise all local self-government powers and adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws.

If you are interested in either: (1) reviewing your options for continuing virtual meetings or (2) ensuring that your planned continuation is legally sound, it is a good idea to reach out to your legal counsel. Please contact Jennifer Readler, MacKenzie Newberry, or any attorney in Frost Brown Todd's Government Services practice group if you have questions.

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[1] Am. Sub. H.B. No. 197.
[2] *Id.*
[3] Sub. H.B. No. 404.

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