

# CORONAVIRUS ALTERS OHIO PUBLIC MEETINGS ACT

By: Jack Greiner on March 26, 2020 on [graydon.law](https://graydon.law)

I've received a lot of questions recently about how the response to the Coronavirus might impact Ohio's Open Meetings Act. That law, O.R.C. 121.22, requires all meetings of public bodies to be open to the public, and that members of the public body be physically present to be counted in a quorum and to vote.

In our current world of stay at home orders, lockdowns and quarantines, those requirements are problematic. And there have been some piecemeal responses thus far. Attorney General Yost sent an advisory letter on March 13 suggesting that the declaration of the emergency in itself would allow for an interpretation of the Open Meetings Act that would deem a member participating by teleconference to be "present in person" and deem public access via electronic means to be "open to the public." I found that interpretation to be a bit of a stretch.

In addition, some charter cities, exercising their "home rule" powers under the Ohio Constitution, have passed ordinances that alter the provisions of the Ohio Open Meetings Act. Depending on the wording of the charter, that may be okay. But it only applies to a small subset of public bodies.

Yesterday, the Ohio General Assembly took action that will bring some uniformity. It passed Amended Substitute House Bill 197. Among the bill's provisions, it addresses the public meeting questions in two significant ways. First, it allows members of a public body to attend meetings or hearings by means of teleconference, video conference, or any other similar electronic technology. And those members shall be considered present as if in person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing.

Second, public bodies may conduct meetings by means of teleconference, video conference, or any other similar electronic technology. The public body must provide the public access commensurate with the method in which the meeting or hearing is being conducted, including, but not limited to, examples such as live-streaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar electronic technology. The public body must ensure that the public can observe and hear the discussions and deliberations of all the members of the public body, whether the member is participating in person or electronically.

Finally, when members of a public body conduct a hearing by means of teleconference, video conference, or any other similar electronic technology, the public body must establish a means, through the use of electronic equipment that is widely available to the general public, to converse with witnesses, and to receive documentary testimony and physical evidence.

The legislation is effective during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, but not beyond December 1, 2020, unless the period of the emergency continues beyond that date.

The Act hasn't been signed yet, but it will be effective immediately upon the Governor's signing it.

This legislation has no impact on courts, who will need to fashion their own rules. Courts, however, are subject to constitutional limits on their ability to bar access. But that is the subject of another blog.

This legislation isn't ideal, but these days, nothing is. The good news is that the legislation mandates public access as much as possible, and by its terms, it's temporary. Let us all hope it is as temporary as possible.

