

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 83

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.197-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. For the purposes of this chapter:

(a) "Public agency", except as provided in section 2.1 of this chapter, means the following:

- (1) Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.
- (2) Any county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.
- (3) Any entity which is subject to either:
 - (A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or
 - (B) audit by the state board of accounts that is required by statute, rule, or regulation.
- (4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public



facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.

(7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are any of the following:

(1) A public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business.

(2) The board, commission, council, or other body of a public agency which takes official action upon public business.

(3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include any of the following:

(1) Any social or chance gathering not intended to avoid this chapter.

(2) Any on-site inspection of any:

(A) project;

(B) program; or

(C) facilities of applicants for incentives or assistance from the governing body.

(3) Traveling to and attending meetings of organizations devoted to betterment of government.

(4) A caucus.

(5) A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources.

(6) An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other



official action.

(7) A gathering for the sole purpose of administering an oath of office to an individual.

(8) Collective bargaining discussions that the governing body of a school corporation engages in directly with bargaining adversaries. This subdivision applies only to a governing body that has not appointed an agent or agents to conduct collective bargaining on behalf of the governing body as described in subsection (b)(3).

(d) "Official action" means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions; or
- (6) take final action.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose. The governing body may also admit an individual who has been elected to the governing body but has not been sworn in as a member of the governing body.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(l) "State educational institution" has the meaning set forth in IC 21-7-13-32.

(m) "Charter school" has the meaning set forth in



IC 20-24-1-4). The term includes a virtual charter school (as defined in IC 20-24-1-10).

SECTION 2. IC 5-14-1.5-3, AS AMENDED BY HEA 1130-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication does not violate this section.

(d) This subsection applies only to the governing body of a school corporation or charter school. The governing body:

- (1) shall allow a member of the public who is physically present at the meeting location, including a meeting conducted under section 3.5 of this chapter, to provide oral public comment; and
- (2) may allow a member of the public to provide oral public comment during a meeting conducted under section 3.7 of this chapter.

A governing body may adopt reasonable rules to govern the taking of oral public comment at a meeting. **However, the taking of oral public comment on a topic must occur before the governing body takes final action on the topic.** The governing body may set a limit on the total amount of time for receiving oral public comment on a topic.

(e) Nothing in this section prohibits a governing body from taking reasonable steps to maintain order in a meeting, including removal of any person who is willfully disruptive of the meeting.

SECTION 3. IC 5-14-1.5-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 3.2. (a) This section applies only to the governing body of a:**

- (1) school corporation; or**
- (2) charter school.**

(b) The governing body shall allow oral public comment at a meeting as set forth in section 3 of this chapter.

SECTION 4. IC 5-14-1.5-3.6, AS AMENDED BY P.L.137-2021, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.6. (a) This section applies only to a governing body of the following:

- (1) A charter school. ~~(as defined in IC 20-24-1-4).~~



(2) A public agency of the state, including a body corporate and politic established as an instrumentality of the state.

(3) An airport authority or a department of aviation under IC 8-22.

(4) A conservancy district under IC 14-33.

(b) A member of a governing body who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:

(1) the member;

(2) all other members participating in the meeting;

(3) all members of the public physically present at the place where the meeting is conducted; and

(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:

(1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution, by the commission for higher education, by the board of the Indiana economic development corporation, or by the board of directors of the Indiana secondary market for education loans, as established, incorporated, and designated under IC 21-16-5-1. This subdivision does not apply to a governing body if at least fifty-one percent (51%) of the governing body membership consists of individuals with a disability (as described in IC 12-12-8-3.4) or individuals with a significant disability (as described in IC 12-12-8-3.6), or both. The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:

(A) two (2) of the members; or

(B) one-third (1/3) of the members.

(2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically



attend at least one (1) meeting of the governing body annually. This subsection does not apply to a governing body if at least fifty-one percent (51%) of the governing body membership consists of individuals with a disability (as described in IC 12-12-8-3.4) or individuals with a significant disability (as described in IC 12-12-8-3.6), or both.

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

- (1) meets all requirements of this chapter; and
- (2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:

- (1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.
- (2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.
- (3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.
- (4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.
- (5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this subdivision, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:
 - (A) the member votes with the majority; and
 - (B) the official action is adopted or defeated by one (1) vote.



(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic communication may vote on official action only if, subject to subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.

(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body, the charter school, the airport, the conservancy district, or the public agency.

(i) Nothing in this section affects a public agency's or charter school's right to exclude the public from an executive session in which a member participates by electronic communication.

SECTION 5. IC 5-14-1.5-3.7, AS AMENDED BY HEA 1130-2022, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.7. (a) As used in this section, "disaster emergency" means:



(1) a disaster emergency declared by the governor under IC 10-14-3-12; or

(2) a local disaster emergency declared by the executive (as defined in IC 36-1-2-5) of a political subdivision under IC 10-14-3-29.

(b) Notwithstanding section 3.5 or 3.6 of this chapter, ~~the members of a governing body are not required to be physically present at a meeting if~~ (1) a disaster emergency is in effect for all or part of the area within the governing body's jurisdiction, ~~and the members of a governing body are not required to be physically present at a meeting:~~

~~(2) (1) if meeting in person would present an imminent risk to the health or safety of the members of the public and the governing body who attend the meeting because of the particular danger, threat, or emergency conditions that are the basis for the declaration of the disaster emergency; meeting in person (A) would be impractical; or (B) would present an imminent risk to the health or safety of the members of the public and the governing body who attend the meeting; and~~

~~(2) if the members are of the governing body of a school corporation or charter school, one (1) or more schools within the jurisdiction of the governing body of the school corporation or the charter school are closed at the time of the meeting because of the particular danger, threat, or emergency conditions that are the basis for the declaration of the disaster emergency.~~

(c) The members of a governing body may meet by any means of electronic communication, if the following are satisfied:

(1) At least a quorum of the members of the governing body participate in the meeting by means of electronic communication or in person.

(2) The public is able to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.

(d) The memoranda for a meeting prepared under section 4 of this chapter for a meeting held under this section must:

- (1) state the name of each member of the governing body who:
 - (A) participated in the meeting by using any electronic means of communication; and
 - (B) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members of the governing body participated in the



meeting; and

(B) the public attended and observed the meeting, if the meeting was not held in executive session.

(e) All votes taken during a meeting under this section must be taken by roll call vote.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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