



April 1, 2021

ENGROSSED SENATE BILL No. 369

DIGEST OF SB 369 (Updated March 31, 2021 1:26 pm - DI 87)

Citations Affected: IC 5-1; IC 5-14; IC 6-9; IC 8-1.

Synopsis: Electronic meetings and signatures. Allows a member of a governing body of a political subdivision to participate in a meeting electronically subject to the following: (1) Requires the governing body to adopt a written policy establishing procedures for electronic participation. (2) Requires the technology to permit simultaneous communication between members and the public to attend and observe the proceedings. (3) Requires at least 50% of the members to be physically present at the meeting site. (4) Allows a member participating electronically to be counted for quorum purposes. (5)
(Continued next page)

Effective: Upon passage.

**Rogers, Donato, Niemeyer, Raatz,
Lanane, Randolph Lonnie M,
Bohacek, Buck, Kruse, Tomes**
(HOUSE SPONSORS — COOK, MILLER D, ROWRAY)

January 12, 2021, read first time and referred to Committee on Local Government.
February 8, 2021, amended, reported favorably — Do Pass.
February 11, 2021, read second time, ordered engrossed. Engrossed.
February 15, 2021, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

March 2, 2021, read first time and referred to Committee on Government and Regulatory Reform.
April 1, 2021, amended, reported — Do Pass.

ES 369—LS 7161/DI 87



Digest Continued

Provides that a member participating electronically may participate in a final action taken by the governing body only if the member can be seen and heard. Exempts governing bodies of state agencies that have a majority of members with disabilities from certain attendance requirements. Provides that if a statute requires a manual signature for attesting or authenticating an obligation issued by certain state and local public entities, an electronic signature has the same force and effect as a manual signature. Adds provisions applicable to state and local public agencies when a state or local disaster emergency is declared. Allows the governing body of a school corporation or charter school (school employer) may allow governing body members and the public to participate electronically in a public hearing required under the law for purposes of collective bargaining. Makes stylistic changes.

ES 369—LS 7161/DI 87



April 1, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 369

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

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

1 SECTION 1. IC 5-1-3-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~For As used in the purposes~~
3 ~~of this chapter:~~

4 (1) "electronic signature" has the meaning set forth in
5 IC 26-2-8-102(10);

6 (2) "obligations" shall include any bond, note, warrant, or
7 other obligation; and

8 (a) (3) "public entity" shall include any political subdivision as
9 defined by IC 36-1-2, state commission, state authority, and all
10 other public bodies corporate and politic.

11 (b) "Obligations" shall include any bond, note, warrant, or other
12 obligation.

13 SECTION 2. IC 5-1-3-2 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Whenever any existing
15 statute requires the manual execution, attesting or authentication of any
16 obligation issued by any public entity named in IC 5-1-1-1 by one (1)
17 or more officials or persons, facsimile signatures **or electronic**

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1 **signatures** of ~~such~~ the officials or persons may be used instead of and
 2 with the same force and effect as manually executing ~~such~~ the
 3 obligations, ~~One (1) signature on the obligation shall be manual and~~
 4 **may be either including** the signature of ~~one (1) of~~ the officials or
 5 persons or of any trustee, paying agent, registrar, co-registrar, transfer
 6 agent, or other fiduciary charged with authenticating the obligations.

7 (b) Any obligation executed by the facsimile signature **or electronic**
 8 **signature** of officials or persons is valid and binding, if the officials or
 9 persons satisfied the provisions of the statute under which the
 10 obligation is issued on the date that the signature was printed on the
 11 obligation, even if the obligation is delivered after the official or person
 12 whose facsimile signature **or electronic signature** appears thereon no
 13 longer satisfies the provisions of the statute.

14 SECTION 3. IC 5-1-14-1.5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this
 16 chapter, "obligations" has the meaning set forth in ~~IC 5-1-3-1(b).~~
 17 **IC 5-1-3-1(2).**

18 SECTION 4. IC 5-1-14-18 IS ADDED TO THE INDIANA CODE
 19 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: **Sec. 18. In connection with the issuance by the**
 21 **issuer of any obligation described in IC 5-1-1-1(b), the execution of**
 22 **the obligation (including any contract, certificate, or other**
 23 **document executed on behalf of the issuer in connection with the**
 24 **execution of the obligation) using electronic signatures rather than**
 25 **manual signatures shall be considered fully legal and valid for all**
 26 **purposes with the same force and effect as if the execution were**
 27 **performed with manual signatures.**

28 SECTION 5. IC 5-14-1.5-3.5, AS AMENDED BY P.L.154-2016,
 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 3.5. (a) This section applies only to a
 31 governing body of a public agency of a political subdivision, other than
 32 a governing body of an airport authority or a department of aviation as
 33 set forth in section 3.6 of this chapter.

34 (b) **Subject to subsection (i)**, a member of the governing body of a
 35 public agency who is not physically present at a meeting of the
 36 governing body ~~but who communicates with members of the governing~~
 37 ~~body during the meeting by telephone, computer, video conferencing,~~
 38 ~~or any other electronic means of communication:~~

39 (1) may not participate in final action taken at the meeting unless
 40 the member's participation is expressly authorized by statute; and

41 (2) may not be considered to be present at the meeting unless
 42 considering the member to be present at the meeting is expressly



- 1 authorized by statute.
- 2 (c) The memoranda prepared under section 4 of this chapter for a
- 3 meeting in which a member participates by using a means of
- 4 communication described in subsection (b) must state the name of:
- 5 (1) each member who was physically present at the place where
- 6 the meeting was conducted;
- 7 (2) each member who participated in the meeting by using a
- 8 means of communication described in subsection (b); and
- 9 (3) each member who was absent.
- 10 may participate in a meeting by any electronic means of
- 11 communication that does the following:
- 12 (1) Allows all participating members of the governing body to
- 13 simultaneously communicate with each other.
- 14 (2) Allows the public to simultaneously attend and observe the
- 15 meeting. However, this subdivision does not apply to a
- 16 meeting held in executive session.
- 17 Subject to subsection (i), a governing body member who
- 18 participates in the meeting by an electronic means of
- 19 communication shall be considered present for purposes of
- 20 establishing a quorum but may participate in any final action taken
- 21 at the meeting only if the member can be seen and heard.
- 22 (c) A technological failure in an electronic means of
- 23 communication that disrupts or prevents:
- 24 (1) the simultaneous communication between a member who
- 25 is not physically present at the meeting and the governing
- 26 body; or
- 27 (2) a member of the public who is not present at the meeting
- 28 from attending and observing the meeting;
- 29 does not prevent the governing body from conducting the meeting
- 30 or affect the validity of an action taken by the governing body at
- 31 the meeting, if the sum of the governing body members physically
- 32 present at the meeting and the governing body members
- 33 participating by electronic communication without technological
- 34 failure satisfy the quorum and (if a final action is taken) the voting
- 35 requirements of the governing body.
- 36 (d) The governing body shall adopt a written policy establishing
- 37 the procedures that apply to a member's participation in a meeting
- 38 by an electronic means of communication. The governing body
- 39 may establish procedures that are more restrictive than the
- 40 procedures established by this section. The policy adopted under
- 41 this section may include:
- 42 (1) limiting the number of members who may participate by



1 **electronic communication in any one (1) meeting;**
 2 **(2) limiting the total number of meetings that the governing**
 3 **body may conduct in a calendar year by electronic**
 4 **communication; and**
 5 **(3) requiring a member, except in the case of a meeting called**
 6 **to deal with an emergency under section 5(d) of this chapter,**
 7 **who plans to attend a meeting by any electronic means of**
 8 **communication to notify the presiding officer within a certain**
 9 **period of time before the meeting, as specified by the**
 10 **governing body, so that arrangements may be made for the**
 11 **member's participation by electronic communication.**

12 **(e) The memoranda prepared under section 4 of this chapter for**
 13 **a meeting in which a member participates by an electronic means**
 14 **of communication must:**

15 **(1) state the name of each member of the governing body who:**
 16 **(A) was physically present at the place where the meeting**
 17 **was conducted;**
 18 **(B) participated in the meeting by using any electronic**
 19 **means of communication; and**
 20 **(C) was absent; and**
 21 **(2) identify the electronic means of communication by which:**
 22 **(A) members of the governing body participated in the**
 23 **meeting; and**
 24 **(B) the public attended and observed the meeting, if the**
 25 **meeting was not held in executive session.**

26 **(f) All votes taken during a meeting under this section must be**
 27 **taken by roll call vote.**

28 **(g) At least fifty percent (50%) of the members of the governing**
 29 **body must be physically present at a meeting.**

30 **(h) A member of the governing body may not attend more than**
 31 **fifty percent (50%) of the governing body's meetings in a calendar**
 32 **year by means of electronic communication, unless the member's**
 33 **electronic participation is due to:**

34 **(1) military service;**
 35 **(2) illness or other medical condition;**
 36 **(3) death of a relative; or**
 37 **(4) an emergency involving actual or threatened injury to**
 38 **persons or property.**

39 **(i) A member of a governing body may not participate in a**
 40 **meeting of the governing body by electronic communication if the**
 41 **governing body is attempting to take final action to:**

42 **(1) adopt a budget;**



- 1 **(2) make a reduction in personnel;**
 2 **(3) initiate a referendum;**
 3 **(4) establish or increase a fee;**
 4 **(5) establish or increase a penalty;**
 5 **(6) use the governing body's eminent domain authority; or**
 6 **(7) establish, raise, or renew a tax.**
- 7 **(j) A governing body may not prohibit a member of the**
 8 **governing body from attending consecutive meetings by electronic**
 9 **communication. A member may attend two (2) consecutive**
 10 **meetings (a set of meetings) by electronic communication. A**
 11 **member shall physically attend at least one (1) meeting between**
 12 **sets of meetings that the member attends by electronic**
 13 **communication, unless the member's absence is due to:**
- 14 **(1) military service;**
 15 **(2) illness or other medical condition;**
 16 **(3) death of a relative; or**
 17 **(4) an emergency involving actual or threatened injury to**
 18 **persons or property.**
- 19 **(k) A school employer (as defined in IC 20-29-2-15(1)) may**
 20 **allow governing body members and the public to participate in a**
 21 **public hearing under IC 20-29-6-1(b) or IC 20-29-6-19(a) by means**
 22 **of electronic communication.**
- 23 SECTION 6. IC 5-14-1.5-3.6, AS AMENDED BY P.L.237-2017,
 24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a
 26 governing body of the following:
- 27 (1) A charter school (as defined in IC 20-24-1-4).
 28 (2) A public agency of the state, including a body corporate and
 29 politic established as an instrumentality of the state.
 30 (3) An airport authority or a department of aviation under IC 8-22.
- 31 (b) A member of a governing body who is not physically present at
 32 a meeting of the governing body may participate in a meeting of the
 33 governing body by electronic communication only if the member uses
 34 a means of communication that permits:
- 35 (1) the member;
 36 (2) all other members participating in the meeting;
 37 (3) all members of the public physically present at the place
 38 where the meeting is conducted; and
 39 (4) if the meeting is conducted under a policy adopted under
 40 subsection (g)(7), all members of the public physically present at
 41 a public location at which a member participates by means of
 42 electronic communication;



- 1 to simultaneously communicate with each other during the meeting.
- 2 (c) The governing body must fulfill both of the following
- 3 requirements for a member of the governing body to participate in a
- 4 meeting by electronic communication:
- 5 (1) This subdivision does not apply to committees appointed by
- 6 a board of trustees of a state educational institution, by the
- 7 commission for higher education, by the board of the Indiana
- 8 economic development corporation, or by the board of directors
- 9 of the Indiana secondary market for education loans, as
- 10 established, incorporated, and designated under IC 21-16-5-1.
- 11 **This subdivision does not apply to a governing body if at least**
- 12 **fifty-one percent (51%) of the governing body membership**
- 13 **consists of individuals with a disability (as described in**
- 14 **IC 12-12-8-3.4) or individuals with a significant disability (as**
- 15 **described in IC 12-12-8-3.6), or both.** The minimum number of
- 16 members who must be physically present at the place where the
- 17 meeting is conducted must be the greater of:
- 18 (A) two (2) of the members; or
- 19 (B) one-third (1/3) of the members.
- 20 (2) All votes of the governing body during the electronic meeting
- 21 must be taken by roll call vote.
- 22 Nothing in this section affects the public's right under this chapter to
- 23 attend a meeting of the governing body at the place where the meeting
- 24 is conducted and the minimum number of members is physically
- 25 present as provided for in subdivision (1).
- 26 (d) Each member of the governing body is required to physically
- 27 attend at least one (1) meeting of the governing body annually. **This**
- 28 **subsection does not apply to a governing body if at least fifty-one**
- 29 **percent (51%) of the governing body membership consists of**
- 30 **individuals with a disability (as described in IC 12-12-8-3.4) or**
- 31 **individuals with a significant disability (as described in**
- 32 **IC 12-12-8-3.6), or both.**
- 33 (e) Unless a policy adopted by a governing body under subsection
- 34 (g) provides otherwise, a member who participates in a meeting by
- 35 electronic communication:
- 36 (1) is considered to be present at the meeting;
- 37 (2) shall be counted for purposes of establishing a quorum; and
- 38 (3) may vote at the meeting.
- 39 (f) A governing body may not conduct meetings using a means of
- 40 electronic communication until the governing body:
- 41 (1) meets all requirements of this chapter; and
- 42 (2) by a favorable vote of a majority of the members of the



- 1 governing body, adopts a policy under subsection (g) governing
2 participation in meetings of the governing body by electronic
3 communication.
- 4 (g) A policy adopted by a governing body to govern participation in
5 the governing body's meetings by electronic communication may do
6 any of the following:
- 7 (1) Require a member to request authorization to participate in a
8 meeting of the governing body by electronic communication
9 within a certain number of days before the meeting to allow for
10 arrangements to be made for the member's participation by
11 electronic communication.
- 12 (2) Subject to subsection (e), limit the number of members who
13 may participate in any one (1) meeting by electronic
14 communication.
- 15 (3) Limit the total number of meetings that the governing body
16 may conduct in a calendar year by electronic communication.
- 17 (4) Limit the number of meetings in a calendar year in which any
18 one (1) member of the governing body may participate by
19 electronic communication.
- 20 (5) Provide that a member who participates in a meeting by
21 electronic communication may not cast the deciding vote on any
22 official action. For purposes of this subdivision, a member casts
23 the deciding vote on an official action if, regardless of the order
24 in which the votes are cast:
- 25 (A) the member votes with the majority; and
26 (B) the official action is adopted or defeated by one (1) vote.
- 27 (6) Require a member participating in a meeting by electronic
28 communication to confirm in writing the votes cast by the
29 member during the meeting within a certain number of days after
30 the date of the meeting.
- 31 (7) Provide that in addition to the location where a meeting is
32 conducted, the public may also attend some or all meetings of the
33 governing body, excluding executive sessions, at a public place
34 or public places at which a member is physically present and
35 participates by electronic communication. If the governing body's
36 policy includes this provision, a meeting notice must provide the
37 following information:
- 38 (A) The identity of each member who will be physically
39 present at a public place and participate in the meeting by
40 electronic communication.
- 41 (B) The address and telephone number of each public place
42 where a member will be physically present and participate by



- 1 electronic communication.
- 2 (C) Unless the meeting is an executive session, a statement
- 3 that a location described in clause (B) will be open and
- 4 accessible to the public.
- 5 (8) Require at least a quorum of members to be physically present
- 6 at the location where the meeting is conducted.
- 7 (9) Provide that a member participating by electronic
- 8 communication may vote on official action only if, subject to
- 9 subsection (e), a specified number of members:
- 10 (A) are physically present at the location where the meeting is
- 11 conducted; and
- 12 (B) concur in the official action.
- 13 (10) Establish any other procedures, limitations, or conditions that
- 14 govern participation in meetings of the governing body by
- 15 electronic communication and are not in conflict with this
- 16 chapter.
- 17 (h) The policy adopted by the governing body must be posted on the
- 18 Internet web site of the governing body, the charter school, the airport,
- 19 or the public agency.
- 20 (i) Nothing in this section affects a public agency's or charter
- 21 school's right to exclude the public from an executive session in which
- 22 a member participates by electronic communication.
- 23 SECTION 7. IC 5-14-1.5-3.7 IS ADDED TO THE INDIANA
- 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 25 [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies**
- 26 **only if:**
- 27 **(1) the governor declares a disaster emergency under**
- 28 **IC 10-14-3-12; or**
- 29 **(2) the executive (as defined in IC 36-1-2-5) of a political**
- 30 **subdivision declares a local disaster emergency under**
- 31 **IC 10-14-3-29.**
- 32 **(b) Notwithstanding section 3.5 or 3.6 of this chapter, the**
- 33 **members of a governing body are not required to be physically**
- 34 **present at a meeting until the disaster emergency or local disaster**
- 35 **emergency is terminated. The members of a governing body may**
- 36 **meet by any means of electronic communication, if the following**
- 37 **are satisfied:**
- 38 **(1) At least a quorum of the members of the governing body**
- 39 **participate in the meeting by means of electronic**
- 40 **communication or in person.**
- 41 **(2) The public is able to simultaneously attend and observe the**
- 42 **meeting. However, this subdivision does not apply to a**



- 1 **meeting held in executive session.**
- 2 **(c) The memoranda for a meeting prepared under section 4 of**
- 3 **this chapter for a meeting held under this section must:**
- 4 **(1) state the name of each member of the governing body who:**
- 5 **(A) participated in the meeting by using any electronic**
- 6 **means of communication; and**
- 7 **(B) was absent; and**
- 8 **(2) identify the electronic means of communication by which:**
- 9 **(A) members of the governing body participated in the**
- 10 **meeting; and**
- 11 **(B) the public attended and observed the meeting, if the**
- 12 **meeting was not held in executive session.**
- 13 **(d) All votes taken during a meeting under this section must be**
- 14 **taken by roll call vote.**
- 15 SECTION 8. IC 6-9-38-9, AS ADDED BY P.L.214-2005,
- 16 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 UPON PASSAGE]: Sec. 9. As used in this chapter, "obligations" has
- 18 the meaning set forth in ~~IC 5-1-3-1(b)~~. **IC 5-1-3-1(2).**
- 19 SECTION 9. IC 8-1-2.2-31, AS ADDED BY P.L.179-2007,
- 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 UPON PASSAGE]: Sec. 31. (a) **Except as provided in subsection (e),**
- 22 **this section applies to a meeting of the board of commissioners of a**
- 23 **joint agency at which at least a quorum of the board is must be**
- 24 **physically present at the place where the meeting is conducted. a**
- 25 **meeting of the board of commissioners of a joint agency is**
- 26 **conducted.**
- 27 (b) A member of the board of commissioners of a joint agency may
- 28 participate in a meeting of the board of commissioners by using a
- 29 means of **electronic** communication that permits:
- 30 (1) all other members participating in the meeting; and
- 31 (2) all members of the public physically present at the place
- 32 where the meeting is conducted;
- 33 to simultaneously communicate with each other during the meeting.
- 34 (c) A member of the board of commissioners of a joint agency who
- 35 participates in a meeting by using a means of communication described
- 36 in subsection (b) is considered to be present at the meeting.
- 37 (d) The memoranda of a meeting of the board of commissioners of
- 38 a joint agency prepared under IC 5-14-1.5-4 must state the name of:
- 39 (1) each member who was physically present at the place where
- 40 the meeting was conducted;
- 41 (2) each member who participated in the meeting by using a
- 42 means of communication described in subsection (b); and



1 (3) each member who was absent.
2 **(e) This subsection applies if the governor declares a disaster**
3 **emergency under IC 10-14-3-12, or a local disaster emergency is**
4 **declared under IC 10-14-3-29. The board of commissioners of a**
5 **joint agency may meet without any members of the board of**
6 **commissioners being physically present at the meeting until ninety**
7 **(90) days after the disaster emergency or local disaster emergency**
8 **is terminated, if the members participate by means of electronic**
9 **communication in the manner set forth in subsection (b). A**
10 **member of the board of commissioners of a joint agency who**
11 **participates in a meeting in accordance with this subsection is**
12 **considered to be present at the meeting. The board shall prepare**
13 **a memoranda of the meeting as set forth in subsection (d).**
14 SECTION 10. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 369, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 10 through 21, begin a new line blocked left and insert:

"may participate in a meeting by any electronic means of communication that allows all participating members of the governing body to simultaneously communicate with each other. A governing body member who participates in the meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum but may participate in any final action taken at the meeting only if the member can be seen and heard. In addition:

(1) before January 1, 2023, the governing body may use an electronic means of communication that allows the public to simultaneously attend and observe the meeting; and

(2) after December 31, 2022, the governing body shall use an electronic means of communication that allows the public to simultaneously attend and observe the meeting.

However, subdivisions (1) and (2) do not apply to a meeting held in executive session.

(c) A technological failure in the electronic means of communication that disrupts or prevents:

(1) the simultaneous communication between a member who is not physically present at the meeting and the governing body; or

(2) a member of the public who is not present at the meeting from attending and observing the meeting;

does not prevent the governing body from conducting the meeting or affect the validity of an action taken by the governing body at the meeting, if the sum of the governing body members physically present at the meeting and the governing body members participating by electronic communication without technological failure satisfy the quorum and (if final action is taken) the voting requirements of the governing body."

Page 3, line 22, delete "(c)" and insert "(d)".

Page 3, delete lines 33 through 41, begin a new line block indented and insert:

"(3) Require a member, except in the case of a meeting called to deal with an emergency under section 5(d) of this chapter,



who plans to attend a meeting by any electronic means of communication to notify the presiding officer within a certain period of time before the meeting, as specified by the governing body, so that arrangements may be made for the member's participation by electronic communication."

Page 3, line 42, delete "(d)" and insert "(e)".

Page 4, line 14, delete "(e)" and insert "(f)".

Page 4, line 15, delete "Before the next regular or special meeting".

Page 4, delete lines 16 through 19.

Page 4, between lines 19 and 20, begin a new paragraph and insert:

"(g) At least fifty percent (50%) of the members of the governing body must be physically present at a meeting."

Page 4, line 20, delete "(f)" and insert "(h)".

Page 4, delete lines 28 through 34, begin a new paragraph and insert:

"(i) A governing body may not prohibit a member of the governing body from attending consecutive meetings by electronic communication. A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member shall physically attend at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;**
- (2) illness or other medical condition;**
- (3) death of a relative; or**
- (4) an emergency involving actual or threatened injury to persons or property."**

Page 4, line 35, delete "(h)" and insert "(j)".

Page 5, line 18, delete "." and insert "**or in person.**".

Page 5, line 34, delete "Before the next regular or special meeting".

Page 5, delete lines 35 through 38.

Page 6, line 30, delete "until the" and insert "**until ninety (90) days after the.**"

and when so amended that said bill do pass.

(Reference is to SB 369 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 9, Nays 0.

ES 369—LS 7161/DI 87



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 369, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, delete "A" and insert "**Subject to subsection (i), a**".

Page 3, delete lines 10 through 25, begin a new line blocked left and insert:

"may participate in a meeting by any electronic means of communication that does the following:

(1) Allows all participating members of the governing body to simultaneously communicate with each other.

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

Subject to subsection (i), a governing body member who participates in the meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum but may participate in any final action taken at the meeting only if the member can be seen and heard."

Page 3, line 26, delete "the" and insert "**an**".

Page 3, line 38, after "if" insert "**a**".

Page 3, line 41, delete "which" and insert "**that**".

Page 4, line 3, delete "include any of the following:" and insert "**include:**".

Page 4, line 4, delete "Limit" and insert "**limiting**".

Page 4, line 5, delete "meeting." and insert "**meeting;**".

Page 4, line 6, delete "Limit" and insert "**limiting**".

Page 4, line 8, delete "communication." and insert "**communication; and**".

Page 4, line 9, delete "Require" and insert "**requiring**".

Page 4, delete lines 34 through 36, begin a new paragraph and insert:

"(h) A member of the governing body may not attend more than fifty percent (50%) of the governing body's meetings in a calendar year by means of electronic communication, unless the member's electronic participation is due to:"

Page 4, between lines 41 and 42, begin a new paragraph and insert:

"(i) A member of a governing body may not participate in a meeting of the governing body by electronic communication if the governing body is attempting to take final action to:



- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) establish or increase a fee;
- (5) establish or increase a penalty;
- (6) use the governing body's eminent domain authority; or
- (7) establish, raise, or renew a tax."

Page 4, line 42, delete "(i)" and insert "(j)".

Page 5, delete lines 12 through 19, begin a new paragraph and insert:

"(k) A school employer (as defined in IC 20-29-2-15(1)) may allow governing body members and the public to participate in a public hearing under IC 20-29-6-1(b) or IC 20-29-6-19(a) by means of electronic communication.

SECTION 6. IC 5-14-1.5-3.6, AS AMENDED BY P.L.237-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.

(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, 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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 369 as printed February 9, 2021.)

MILLER D

Committee Vote: yeas 9, nays 2.

