

Minutes
Athens County Board of Elections
Regular Meeting
September 21, 2022, 3:32 pm

The Athens County Board of Elections met on September 21, 2022 at 3:32 pm at the board office. The meeting was called to order by Board Chair McGuckin, Roll Call – Aundrea S. Carpenter-Colvin, Gary Van Meter, Sky Pettey and Kate McGuckin all present. Also present at the meeting: Director Debra Quivey, Deputy Director Tony Brooks, Zach West Athens County Assistant Prosecutor, Caleb Pierce Ohio Secretary of State Liaison, Debbie Perry and Helen King from the League of Women Voters.

Ms. McGuckin led the pledge.

Motion 2022:09:01

Mr. Pettey moved, seconded by Mrs. Carpenter-Colvin to go into Executive Session including Director Quivey and Deputy Director Brooks to consult with legal representation regarding pending legal action. Voting: Mrs. Carpenter-Colvin – Yes, Mr. Van Meter – Yes, Mr. Pettey – Yes and Ms. McGuckin – Yes

Board went into executive session at 3:35 pm.

Board came out of executive session and was back on the record at 3:50 pm.

Motion 2022:09:02

Mr. Van Meter moved, seconded by Mrs. Carpenter-Colvin that the minutes for August 17, 2022 be approved by the Board as presented. Motion passed unanimously.

Motion 2022:09:03 (Attachment 1)

Mr. Pettey moved, seconded by Ms. McGuckin that the minutes for August 22, 2022 be approved by the Board as presented. Voting: Mrs. Carpenter-Colvin – No, Mr. Van Meter – No, Mr. Pettey – Yes and Ms. McGuckin – Yes Motion failed.

Mr. Van Meter stated that he respectfully disagreed with the opinion of Assistant Prosecutor Zach West and stated that he is basing his opinion on the Ohio Sunshine Law and the Ohio Open Meetings Act. He also stated that he had been in contact with the Ohio Secretary of State's office to get input on this issue. They

returned his call and they told him that they do not believe that this was a meeting and therefore should not have any minutes. Mr. Van Meter respectfully ask Mr. Pettey to withdraw his motion for approval of the August 22, 2022 minutes.

Mr. Pettey stated that he understood Mr. Van Meter's position, but for the reasons stated in Assistant Prosecutor West email, he believed August 22 was a meeting and should have minutes. All the minutes state that there was not have a quorum and there was a motion and a second to adjourn and the session was adjourned.

Mrs. Carpenter-Colvin asked is Secretary of State Liaison Pierce if he had any information regarding this topic.

Secretary of State Liaison Pierce stated that he could not comment of what qualifies as a meeting and if Mr. Van Meter had a discussion with someone from the Secretary of State's office, he was not made aware of it. He was notified that if this vote happens to tie regarding the minutes of August 22, 2022, the Secretary of States office is not obliged to break the ties of votes that do not impact the voting process. If there is a tie vote and it is submitted to the Secretary of State, they will not break the tie one way or another. The tie will be sent back to the Board.

Assistant Prosecutor West stated that he appreciated what Mr. Van Meter's point was. He asked if the source Mr. Van Meter was quoting was from the Sunshine Manual that Attorney General Yost's office had put out?

Mr. Van Meter stated that was correct.

Mr. West stated that the Sunshine Manual is not a mandatory Authority and is not the actual statutes. He stated that it is Attorney General Yost's interpretation of statutes that he has issued since he was Attorney General. Certainly, it can be a help in interpreting the statute, but it is not in and of itself authoritative. As far as the role of the Ohio Secretary of State and the County Prosecutor's office, the County Prosecutor's office would be the authority here, due to their role as legal advisor in terms of interpreting the Open Meeting Act. The Secretary of State as Chief Elections Officer would direct voting process duties, but as stated before this does not pertain to that side of things. This is a legal question and the County Prosecutor's office interpretation would be the authoritative one here. His opinion is this was a meeting that immediately was adjourned due to a lack of a quorum and unlikely of achieving a quorum in a reasonable period of time.

Mr. Van Meter stated that it would just appear much cleaner on the record if the motion was withdrawn and we didn't have to vote on it, but he was certainly willing to vote on it, if that is what the Board wants to do.

Director Quivey asked Mr. Pierce if there is a tie vote on regarding the August 22, 2022 minutes, are we obligated to send it to the Secretary of State to break the tie, knowing that the office is not going to act on it?

Mr. Pierce stated he believed this is a procedural matter, not relating to elections administration and that the office would not be required to send it to the Secretary of State's office, but if the Board did, the Board would be informed that they would not be obliged to break the tie vote.

Assistant Prosecutor West stated that per 3501.11 (X) requires that the board shall submit the tie vote to the Secretary of State, so his interpretation is that the Board has a duty to submit this tie vote to the Secretary of State.

Director Quivey stated that she shall not be signing the minutes for August 22, 2022 because she does not recognize them as minutes because she did not recognize August 22, 2022 as a meeting.

Mr. Pettey stated that the unapproved minutes for the August 22, 2022 should be listed as an exhibit in today's minutes for the record. All other members of the board agreed with this statement.

Mr. Van Meter asked that they be marked as unapproved.

Motion 2022:09:04

Mrs. Carpenter-Colvin moved, seconded by Mr. Van Meter that the minutes for August 26, 2022 be approved by the Board as presented. Motion passed unanimously.

Deputy Director Brooks also mentioned that our office was made aware by email that the Auditors office made an error regarding sending the Ohio Election Commission funds that have been collected and deposited into the correct receipt line for at least two years. They have not been sent to the Ohio Elections Commission. This was the responsibility of the Auditors office to send this money to the Ohio Elections Commission on at least a quarterly basis. This was not an error of our office.

Motion 2022:09:05 (Attachment 2)

Mr. Pettey moved, seconded by Mrs. Carpenter-Colvin that bills from August 18, 2022 to September 21, 2022 be approved as presented by Deputy Director Brooks. Voting: Mrs. Carpenter-Colvin – Yes, Mr. Van Meter – Yes, Mr. Pettey – Yes and Ms. McGuckin – Yes

Director Quivey provided an update regarding UOCAVA ballots with the addition of the statewide candidate going onto the ballot. She stated that we have plans in place to get our ballot updated on Friday and our UOCAVA ballots will go out that day.

Director Quivey stated that our Logic & Accuracy testing is scheduled for this Saturday.


Deputy Director Brooks updated the Board on the progress with the new security directive that came out last month. The cyber security portion of the new directive is nearly complete and we are working with all partners to get it completed as soon as possible. The physical security portion is coming along well and we expect it to be completed by the state deadline.

Secretary of State Liaison Caleb Pierce stated that we are ahead of the curve for compliance with the Security Directive. He also discussed the directive regarding Mara's decision from the Supreme Court and the records request memo that was released from the Secretary of State office.

Next Meetings are: October 19, 2022 at 3:30 pm at the board office and November 8, 2022 at 6:15 am at the board office for Election Day.

Motion 2022:09:06

Mr. Van Meter moved, seconded by Mr. Pettey to adjourn. Motion passed unanimously.



Director



Chair

Attachment 1 - Motion 2022:09:03

Minutes
Athens County Board of Elections
Special Meeting
August 22, 2022, 11:00 am

The Athens County Board of Elections was in session on August 22, 2022 at 11:00 am at the Board office. The session was called to order by Board Chair McGuckin, Roll Call –Sky Pettey and Kate McGuckin both present. Also attending: Director Debra Quivey, Deputy Director Tony Brooks, Sean Parsons, Solveig Spjeldnes, Andrea Reik, Kathy Hecht, Maeve Gallagher, Beth Ferrier, Helen King, Phill Perry, Susanne Perry, Alexandra Buckley, Shelley R. Conrath, Braden Mitchell, Tanya Conrath, Natalie Wittmann, Matt Sweeney, Nicole Conrath, Elizabeth C. Welch, Bonnie Conrath and Larry Conrath.

Motion 2022:08:18

Mr. Pettey moved, seconded by Mrs. McGuckin to adjourn the session for lack of a quorum. Motion passed unanimously.

Director



Chair

UNAPPROVED MINUTES

The Ohio Open Meetings Act

Chapter Seven: "Public Body" and "Meeting" Defined

- The Adult Parole Authority, when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine pardon or parole;⁹⁶⁵
- The State Medical Board,⁹⁶⁶ the State Board of Nursing,⁹⁶⁷ the State Chiropractic Board⁹⁶⁸ when determining whether to suspend a license or certificate without a prior hearing;⁹⁶⁹
- The State Board of Pharmacy when determining whether to suspend a license, certification, or registration without a prior hearing (including during meetings conducted by telephone conference);⁹⁷⁰ or when determining whether to restrict a person from obtaining further information from the drug database without a hearing;⁹⁷¹
- The Emergency Response Commission's executive committee when meeting to determine whether to issue an enforcement order or to decide whether to bring an enforcement action;⁹⁷² and
- The Occupational Therapy Section, Physical Therapy Section, and Athletic Trainers Section of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board when determining whether to suspend a practitioner's license without a hearing.⁹⁷³

b. Public bodies handling particular business

When meeting to consider "whether to grant assistance for purposes of community or economic development" certain public bodies may conduct meetings that are not open to the public. Specifically, the Controlling Board, the Tax Credit Authority, and the Minority Development Financing Advisory Board may close their meetings by *unanimous* vote of the members present in order to protect the interest of the applicant or the possible investment of public funds.⁹⁷⁴

The meetings of these three bodies may only be closed "during consideration of the following information confidentially received ... from the applicant:"

- Marketing plans;
- Specific business strategy;
- Production techniques and trade secrets;
- Financial projections; and
- Personal financial statements of the applicant or the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.⁹⁷⁵

In addition, the board of directors of a community improvement corporation, when acting as an agent of a political subdivision, may close a meeting by *majority* vote of all members present during consideration of non-public record information set out in R.C. 1724.11(A).⁹⁷⁶

B. "Meeting"

1. Definition

The Open Meetings Act requires members of a public body to take official action, conduct deliberations, and discuss the public business in an open meeting, unless the subject matter is specifically exempted by law.⁹⁷⁷ The Act defines a "meeting" as: (1) a prearranged gathering of (2) a majority of the members of a public body (3) for the purpose of discussing public business.⁹⁷⁸

a. Prearranged

The Ohio Open Meetings Act

Chapter Seven: "Public Body" and "Meeting" Defined

business."⁹⁹⁸ Under this analysis, those courts have determined that gatherings strictly of an investigative and information-seeking nature that do not involve actual discussion or deliberation of public business are not "meetings" for purposes of the Open Meetings Act.⁹⁹⁹ More importantly, the Ohio Supreme Court has not ruled on whether "investigative and informational" gatherings are or are not "meetings." Consequently, public bodies should seek guidance from their legal counsel about how such gatherings are viewed by the court of appeals in their district, before convening this kind of private gathering as something other than a regular or special meeting.

Those courts that have distinguished "discussions" or "deliberations" that must take place in public from other exchanges between a majority of its members at a prearranged gathering, have opined that the following are not "meetings" subject to the Open Meetings Act:

- Question-and-answer session between board members, the public body's legal counsel, and others who were not public officials was not a meeting because a majority of the board members did not engage in discussion or deliberation of public business *with one another*;¹⁰⁰⁰
- Conversations among staff members employed by a city council;¹⁰⁰¹
- A presentation to a public body by its legal counsel when the public body receives legal advice;¹⁰⁰² and
- A press conference.¹⁰⁰³

2. *Close-up: applying the definition of "meeting"*

If a gathering meets all three elements of this definition, a court will consider it a "meeting" for the purposes of the Open Meetings Act, regardless of whether the public body initiated the gathering itself or whether it was initiated by another entity. Further, if majorities of multiple public bodies attend one large meeting, a court may construe the gathering of each public body's majority of members to be separate "meetings" of each public body.¹⁰⁰⁴

a. *Work sessions*

A "meeting" by any other name is still a meeting. "Work retreats" or "workshops" are "meetings" when a public body discusses public business among a majority of the members of a public body at a prearranged time.¹⁰⁰⁵ When conducting any meeting, the public body must comply with its obligations under the Open Meetings Act: openness, notice, and minutes.¹⁰⁰⁶

b. *Quasi-judicial proceedings*

Public bodies whose responsibilities include adjudicative duties, such as boards of tax appeals and state professional licensing boards, are considered "quasi-judicial." The Ohio Supreme Court has determined that public bodies conducting quasi-judicial hearings, "like all judicial bodies, [require] privacy to deliberate, i.e., to evaluate and resolve, the disputes."¹⁰⁰⁷ Quasi-judicial proceedings and the deliberations of public bodies when acting in their quasi-judicial capacities are not "meetings" and are not subject to the Open Meetings Act.¹⁰⁰⁸ Accordingly, when a public body is acting in its quasi-judicial capacity, the public body does not have to vote publicly to adjourn for deliberations or to take action following those deliberations.¹⁰⁰⁹

c. *County political party central committees*

The convening of a county political party central committee for the purpose of conducting purely internal party affairs, unrelated to the committee's duties of making appointments to vacated public offices, is not a "meeting" as defined by R.C. 121.22(B)(2). Thus, R.C. 121.22 does not apply to such a gathering.¹⁰¹⁰

d. *Collective bargaining*

Section 3501.11 | Board duties.

Ohio Revised Code / Title 35 Elections /
Chapter 3501 Election Procedure; Election Officials

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Effective: February 25, 2014 Legislation: Senate Bill 109 - 130th General Assembly

Each board of elections shall exercise by a majority vote all powers granted to the board by Title XXXV of the Revised Code, shall perform all the duties imposed by law, and shall do all of the following:

- (A) Establish, define, provide, rearrange, and combine election precincts;
- (B) Fix and provide the places for registration and for holding primaries and elections;
- (C) Provide for the purchase, preservation, and maintenance of booths, ballot boxes, books, maps, flags, blanks, cards of instructions, and other forms, papers, and equipment used in registration, nominations, and elections;
- (D) Appoint and remove its director, deputy director, and employees and all registrars, precinct election officials, and other officers of elections, fill vacancies, and designate the ward or district and precinct in which each shall serve;
- (E) Make and issue rules and instructions, not inconsistent with law or the rules, directives, or advisories issued by the secretary of state, as it considers necessary for the guidance of election officers and voters;
- (F) Advertise and contract for the printing of all ballots and other supplies used in registrations and elections;

- (G) Provide for the issuance of all notices, advertisements, and publications concerning elections, except as otherwise provided in division (G) of section 3501.17 and divisions (F) and (G) of section 3505.062 of the Revised Code;
- (H) Provide for the delivery of ballots, pollbooks, and other required papers and material to the polling places;
- (I) Cause the polling places to be suitably provided with voting machines, marking devices, automatic tabulating equipment, stalls, and other required supplies. In fulfilling this duty, each board of a county that uses voting machines, marking devices, or automatic tabulating equipment shall conduct a full vote of the board during a public session of the board on the allocation and distribution of voting machines, marking devices, and automatic tabulating equipment for each precinct in the county.
- (J) Investigate irregularities, nonperformance of duties, or violations of Title XXXV of the Revised Code by election officers and other persons; administer oaths, issue subpoenas, summon witnesses, and compel the production of books, papers, records, and other evidence in connection with any such investigation; and report the facts to the prosecuting attorney or the secretary of state;
- (K) Review, examine, and certify the sufficiency and validity of petitions and nomination papers, and, after certification, return to the secretary of state all petitions and nomination papers that the secretary of state forwarded to the board;
- (L) Receive the returns of elections, canvass the returns, make abstracts of them, and transmit those abstracts to the proper authorities;
- (M) Issue certificates of election on forms to be prescribed by the secretary of state;
- (N) Make an annual report to the secretary of state, on the form prescribed by the secretary of state, containing a statement of the number of voters registered, elections held, votes

cast, appropriations received, expenditures made, and other data required by the secretary of state;

(O) Prepare and submit to the proper appropriating officer a budget estimating the cost of elections for the ensuing fiscal year;

(P) Perform other duties as prescribed by law or the rules, directives, or advisories of the secretary of state;

(Q) Investigate and determine the residence qualifications of electors;

(R) Administer oaths in matters pertaining to the administration of the election laws;

(S) Prepare and submit to the secretary of state, whenever the secretary of state requires, a report containing the names and residence addresses of all incumbent county, municipal, township, and board of education officials serving in their respective counties;

(T) Establish and maintain a voter registration database of all qualified electors in the county who offer to register;

(U) Maintain voter registration records, make reports concerning voter registration as required by the secretary of state, and remove ineligible electors from voter registration lists in accordance with law and directives of the secretary of state;

(V) Give approval to ballot language for any local question or issue and transmit the language to the secretary of state for the secretary of state's final approval;

(W) Prepare and cause the following notice to be displayed in a prominent location in every polling place:

"NOTICE

Ohio law prohibits any person from voting or attempting to vote more than once at the same election.

Violators are guilty of a felony of the fourth degree and shall be imprisoned and additionally may be fined in accordance with law."

(X) In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or chairperson shall submit the matter in controversy, not later than fourteen days after the tie vote or the disagreement, to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final.

(Y) Assist each designated agency, deputy registrar of motor vehicles, public high school and vocational school, public library, and office of a county treasurer in the implementation of a program for registering voters at all voter registration locations as prescribed by the secretary of state. Under this program, each board of elections shall direct to the appropriate board of elections any voter registration applications for persons residing outside the county where the board is located within five days after receiving the applications.

(Z) On any day on which an elector may vote in person at the office of the board or at another site designated by the board, consider the board or other designated site a polling place for that day. All requirements or prohibitions of law that apply to a polling place shall apply to the office of the board or other designated site on that day.

(AA) Perform any duties with respect to voter registration and voting by uniformed services and overseas voters that are delegated to the board by law or by the rules, directives, or advisories of the secretary of state.

Available Versions of this Section

February 25, 2014 – Senate Bill 109 - 130th General Assembly

Section 121.22 | Public meetings - exceptions.

Ohio Revised Code / Title 1 State Government / Chapter 121 State Departments

Effective: October 9, 2021 Latest Legislation: House Bill 110 - 134th General Assembly

(A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness, an intellectual disability, disease, disability, age, or other condition requiring custodial care.

(4) "Public office" has the same meaning as in section 149.011 of the Revised Code.

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (I) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon and the department of rehabilitation and correction when its hearings are conducted at a correctional institution for the sole purpose of making determinations under section

2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code, meetings related to a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a license or certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to do either of the following:

(a) Suspend a license, certification, or registration without a prior hearing, including during meetings conducted by telephone conference, pursuant to Chapters 3719., 3796., 4729., and 4752. of the Revised Code and rules adopted thereunder; or

(b) Restrict a person from obtaining further information from the drug database established in section 4729.75 of the Revised Code without a prior hearing pursuant to division (C) of section 4729.86 of the Revised Code.

(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;

- (10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;
- (11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;
- (12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code;
- (13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (E) of section 4755.11 of the Revised Code;
- (14) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (F) of section 4755.47 of the Revised Code;
- (15) The athletic trainers section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (E) of section 4755.64 of the Revised Code;
- (16) Meetings of the pregnancy-associated mortality review board established under section 3738.01 of the Revised Code;
- (17) Meetings of a fetal-infant mortality review board established under section 3707.71 of the Revised Code;
- (18) Meetings of a drug overdose fatality review committee described in section 307.631 of the Revised Code;

(19) Meetings of a suicide fatality review committee described in section 307.641 of the Revised Code.

(E) The controlling board, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board or authority members present, may close the meeting during consideration of the following information confidentially received by the authority or board from the applicant:

(1) Marketing plans;

(2) Specific business strategy;

(3) Production techniques and trade secrets;

(4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority or board to accept or reject the application, as well as all proceedings of the authority or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news

media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in divisions (G)(8) and (I) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, the sale of property at competitive bidding, or the sale or other disposition of unneeded, obsolete, or unfit-for-use property in accordance with section 505.10 of the Revised Code, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose

personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

- (3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
- (5) Matters required to be kept confidential by federal law or regulations or state statutes;
- (6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;
- (7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code;

(8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(a) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

(b) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (8) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (I) of this section

and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the

court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the

commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

Last updated October 5, 2021 at 1:45 PM

Available Versions of this Section

September 29, 2013 – House Bill 59 - 130th General Assembly

September 29, 2015 – House Bill 64 - 131st General Assembly

October 12, 2016 – Amended by House Bill 413, House Bill 158 - 131st General Assembly

March 22, 2019 – Amended by Senate Bill 201 - 132nd General Assembly

October 17, 2019 – Amended by House Bill 166 - 133rd General Assembly

December 16, 2020 – Amended by House Bill 341 - 133rd General Assembly

October 9, 2021 – Amended by House Bill 110 - 134th General Assembly

succeeding session.

A rule or resolution of a permanent nature may be adopted by a majority vote at any session of a society, and it will continue in force until it is rescinded. But such a standing rule does not materially interfere with the rights of a future session, as by a majority vote it may be suspended so far as it affects that session; and, it may be rescinded by a majority vote, if notice of the proposed action was given at a previous meeting, or in the notice of the meeting; or, without any notice, it may be rescinded by a majority of the entire membership, or by a two-thirds vote. If it is desired to give greater stability to a rule it is necessary to place it in the constitution by-laws, or rules of order, all of which are so guarded by requiring notice of amendments, and at least a two-thirds vote for their adoption, that they are not subject to sudden changes, and may be considered as expressing the deliberate views of the whole society, rather than the opinions or wishes of any particular meeting.

In case of the illness of the presiding officer the assembly cannot elect a chairman pro tem. to hold office beyond the session, unless notice of the election was given at the previous meeting or in the call for this meeting. So it is improper for an assembly to postpone anything to a day beyond the next succeeding session, and thus attempt to prevent the next session from considering the question. On the other hand, it is not permitted to move the reconsideration of a vote taken at a previous session, though the motion to reconsider can be called up, provided it was made during the previous session in a society having meetings as often as quarterly. Committees can be appointed to report at a future session.

NOTE ON SESSION. -- In Congress, and in fact all legislative bodies, the limits of the sessions are clearly defined; but in ordinary societies having a permanent existence, with regular meetings more or less frequent, there appears to be some confusion upon the subject. Any society is competent to decide what shall constitute one of its sessions, but, where there is no rule on the subject, the common parliamentary law would make each of its regular or special meetings a separate session, as they are regarded in this Manual.

The disadvantages of a rule making a session include all the meetings of an ordinary society, held during a long time, as one year, are very great. If an objection to the consideration of a question as been sustained, or if a question has been adopted, or rejected, or postponed indefinitely, the question cannot again be brought before the assembly for its consideration during the same session. If a session lasted for a long period, a temporary majority could forestall the permanent majority, and introduce and act on a number of questions favored by the majority, and thus prevent the society from dealing with those subjects for the long period of the session. If members of any society take advantage of the freedom allowed by considering each regular meeting a separate session, and repeatedly renew obnoxious or unprofitable motions, the society can adopt a rule prohibiting the second introduction of any main question within, say, three months after its rejection, or indefinite postponement, or after the society has refused to consider it. But generally it is better to suppress the motion by refusing to consider it [23].

64. A Quorum of an assembly is such a number as must be present in order that business can be legally transacted. The quorum refers to the number present, not to the number voting. The quorum of a mass meeting is the number present at the time, as they constitute the membership at that time. The quorum of a body of delegates, unless the by-laws provide for a smaller quorum, is a majority of the number enrolled as attending the convention, not those appointed. The quorum of any other deliberative assembly with an enrolled membership (unless the by-laws provide for a smaller quorum) is a majority of all the

members. In the case, however, of a society, like many religious ones, where there are no annual dues, and where membership is for life (unless it is transferred or the names are struck from the roll by a vote of the society) the register of members is not reliable as a list of the bona fide members of the society, and in many such societies it would be impossible to have present at a business meeting a majority of those enrolled as members. Where such societies have no by-law establishing a quorum, the quorum consists of those who attend the meeting, provided it is either a stated meeting or one that has been properly called.

In all ordinary societies the by-laws should provide for a quorum as large as can be depended upon for being present at all meetings when the weather is not exceptionally bad. In such an assembly the chairman should not take the chair until a quorum is present, or there is no prospect of there being a quorum. The only business that can be transacted in the absence of a quorum is to take measures to obtain a quorum, to fix the time to which to adjourn, and to adjourn, or to take a recess. Unanimous consent cannot be given when a quorum is not present, and a notice given then is not valid. In the case of an annual meeting, where certain business for the year, as the election of officers, must be attended to during the session, the meeting should fix a time for an adjourned meeting and then adjourn.

In an assembly that has the power to compel the attendance of its members, if a quorum is not present at the appointed hour, the chairman should wait a few minutes before taking the chair. In the absence of a quorum such an assembly may order a call of the house [41] and thus compel attendance of absentees, or it may adjourn, providing for an adjourned meeting if it pleases.

In committee of the whole the quorum is the same as in the assembly; if it finds itself without a quorum it can do nothing but rise and report to the assembly, which then adjourns. In any other committee the majority is a quorum, unless the assembly order otherwise, and it must wait for a quorum before proceeding to business. Boards of trustees, managers, directors, etc., are on the same footing as committees as regards a quorum. Their power is delegated to them as a body, and their quorum, or what number shall be present, in order that they may act as a board or committee, cannot be determined by them, unless so provided in the by-laws.

While no question can be decided in the absence of a quorum excepting those mentioned above, a member cannot be interrupted while speaking in order to make the point of no quorum. The debate may continue in the absence of a quorum until some one raises the point while no one is speaking.

While a quorum is competent to transact any business, it is usually not expedient to transact important business unless there is a fair attendance at the meeting, or else previous notice of such action has been given.

Care should be taken in amending the rule providing for a quorum. If the rule is struck out first, then the quorum instantly becomes a majority of all the members, so that in many societies it would be nearly impracticable to secure a quorum to adopt a new rule. The proper way is to amend by striking out certain words (or the whole rule) and inserting certain other words (or the new rule), which is made and voted on as one question.

NOTE ON QUORUM. -- After all the members of an organization have had reasonable notice of a meeting, and ample opportunity for discussion, if a majority of the total membership of the organization come to a certain decision, that must be accepted as the action or opinion of that body. But, with the exception of a body of delegates, it is seldom that a vote as great as a majority of the total membership of

a large voluntary organization can be obtained for anything, and consequently there has been established a common parliamentary law principle, that if a bare majority of the membership is present at a meeting properly called or provided for, a majority vote (which means a majority of those who vote) shall be sufficient to make the act the act of the body, unless it suspends a rule or a right of a member (as the right to introduce questions and the right of free discussion before being required to vote on finally disposing of a question) and that a two-thirds vote shall have the power to suspend these rules and rights. This gives the right to act for the society to about one-fourth of its members in ordinary cases, and to about one-third of its members in case of suspending the rules and certain rights. But it has been found impracticable to accomplish the work of most voluntary societies if no business can be transacted unless a majority of the members is present. In large organizations, meeting weekly or monthly for one or two hours, it is the exception when a majority of the members is present at a meeting, and therefore it has been found necessary to require the presence of only a small percentage of the members to enable the assembly to act for the organization, or, in other words, to establish a small quorum. In legislative bodies in this country, which are composed of members paid for their services, it is determined by the constitutions to be a majority of their members. Congress in 1861 decided this to be a majority of the members chosen. In the English House of Commons it is 40 out of nearly 700, being about 6% of the members, while in the House of Lords the quorum is 3, or about one-half of 1% of the members. Where the quorum is so small it has been found necessary to require notice of all bills, amendments, etc., to be given in advance; and even in Congress, with its large quorum, one day's notice has to be given of any motion to rescind or change any rule or standing order. This principle is a sound one, particularly with societies meeting monthly or weekly for one or two hours, and with small quorums, where frequently the assembly is no adequate representation of the society. The difficulty in such cases may be met in societies adopting this Manual by the proper use of the motion to reconsider and have entered on the minutes as explained in 36:13.

65. Order of Business. It is customary for every society having a permanent existence to adopt an order of business for its meetings. When no rule has been adopted, the following is the order:

- (1) Reading the Minutes of the previous meeting [and their approval].
- (2) Reports of Boards and Standing Committees.
- (3) Reports of Special (Select) Committees.
- (4) Special Orders.
- (5) Unfinished Business and General Orders
- (6) New Business.

The minutes are read only once a day at the beginning of the day's business. The second item includes the reports of all Boards of Managers, Trustees, etc., as well as reports of such officers as are required to make them. The fifth item includes, first, the business pending and undisposed of at the previous adjournment; and then the general orders that were on the calendar for the previous meeting and were not disposed of; and finally, matters postponed to this meeting that have not been disposed of.

The secretary should always have at every meeting a memorandum of the order of business for the use of the presiding officer, showing everything that is to come before the meeting. The chairman, as soon as one thing is disposed of, should announce the next business in order. When reports are in order he should call for the different reports in their order, and when unfinished business is in order he should announce

Expenses Paid Between August 18, 2022 and September 21, 2022

Time Warner Cable/Spectrum	Cable	\$103.42
Amazon	Toner	\$230.38
Quill.com	Misc Supplies	\$243.77
Freedomlinx	Run Computer Line for Mail Machine	\$500.00
Pitney Bowes	Letter Opener Lease	\$391.86
Quill.com	Badge	\$14.06
Amazon	Vest, Labels, Etc	\$291.99
Glacier Mountain Bottled Water	Water	\$25.00
HVB Cardmember Services	Food	\$624.00
Graphic Village	Postage for Absentees	\$5,100.00
Various	County Worker Pay - August Election	\$36,389.74
Various	Poll Worker Pay - August Election	\$21,567.03
First Presbyterian Church	Location Rental Fee	\$175.00
Election Systems & Software	Site Support - Election Day	\$4,975.00
Election Systems & Software	Site Support - Official	\$1,795.00
Hocking Valley Bank	Gas	\$424.45
Parker Colvin	Mileage	\$13.13
Ohio University	Truck & Staff Rental	\$3,456.00
Election Systems & Software	Ballot on Demand Setup	\$927.30
Election Systems & Software	E-PollBook Setup	\$2,325.33
Total		\$79,572.46