



KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by 2021 Ind. Legis. Serv. P.L. 107-2021 (S.E.A. 68) (WEST),



KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's Annotated Indiana Code

Title 5. State and Local Administration

Article 14. Public Records and Public Meetings

Chapter 1.5. Public Meetings (Open Door Law)

IC 5-14-1.5-3.5

### 5-14-1.5-3.5 Participation at meetings of the governing body of a public agency of a political subdivision through electronic communication

Effective: April 20, 2021

[Currentness](#)

Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision, other than a governing body of an airport authority or a department of aviation as set forth in [section 3.6](#) of this chapter.

(b) Subject to subsection (i), a member of the governing body of a public agency who is not physically present at a meeting of the governing body 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.

(c) A technological failure in an 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 a final action is taken) the voting requirements of the governing body.

(d) The governing body shall adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication. The governing body may establish procedures that are more restrictive than the procedures established by this section. The policy adopted under this section may include:

- (1) limiting the number of members who may participate by electronic communication in any one (1) meeting;
- (2) limiting the total number of meetings that the governing body may conduct in a calendar year by electronic communication; and
- (3) requiring 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.

(e) The memoranda prepared under [section 4](#) of this chapter for a meeting in which a member participates by an electronic means of communication must:

- (1) state the name of each member of the governing body who:
  - (A) was physically present at the place where the meeting was conducted;
  - (B) participated in the meeting by using any electronic means of communication; and
  - (C) was absent; and
- (2) identify the electronic means of communication by which:
  - (A) members of the governing body participated in the meeting; and
  - (B) the public attended and observed the meeting, if the meeting was not held in executive session.

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

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

(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:

- (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.

(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.

(j) 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.

**Credits**

As added by [P.L.134-2012, SEC.11](#), eff. Jan. 1, 2013. Amended by [P.L.154-2016, SEC.1](#), eff. July 1, 2016; [P.L.88-2021, SEC.5](#), eff. April 20, 2021.

<For effect of COVID-19 Public Health Emergency on this section, see [2020 Indiana Executive Order 20-4 \(2020 IN EO 20-4\)](#), dated March 16, 2020, and Indiana Executive Order 20-9 ([2020 IN EO 20-9](#)), dated March 23, 2020. Executive orders renewed by [2020 Indiana Executive Order 20-17 \(2020 IN EO 20-17\)](#), dated April 3, 2020. [2020 Indiana Executive Order 20-9 \(2020 IN EO 20-9\)](#), was extended to May 1, 2020, by [2020 Indiana Executive Order 20-22 \(2020 IN EO 20-22\)](#).>

I.C. 5-14-1.5-3.5, IN ST 5-14-1.5-3.5

The statutes and Constitution are current with all legislation of the 2021 First Regular Session of the 122nd General Assembly effective through May 10, 2021.

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