

## Insights

### Open Door Law Update: “Declared Emergency” Virtual Meetings Continue Under Governor Holcomb’s Eighteenth Renewal of the Public Health Emergency Declaration

September 8, 2021

By: Christopher W. Bloomer and Robert S. Schein

A few months ago, we analyzed House Enrolled Act 1437 (“HEA 1437”), which modified Indiana’s Open Door Law and authorized (after certain requirements were met) virtual attendance and voting by members of a governing body.<sup>1</sup> Our earlier analysis covered the meeting requirements during a declared emergency and meeting requirements during a non-emergency. Many governing bodies likely adopted or considered adopting virtual meeting policies for times of non-emergency.

For those that haven’t, virtual meetings are still permissible as of today because HEA 1437 permits virtual meetings during a declared emergency, such as the current public health emergency declaration, which will last until at least September 30, 2021.<sup>2</sup> Therefore, until September 30, 2021, and any further extension to the public health emergency declaration, the following applies:

#### **BEFORE:**

- A member of the governing body who was not physically present at a meeting could not participate in final action and could not be considered present at the meeting unless authorized by statute.

#### **NOW ( UNDER DECLARED EMERGENCY ):**

- If the governor or the executive of a political subdivision declares a disaster emergency under Title 10 of the Indiana Code, the members of a governing body may:
  - Meet electronically so long as a quorum of the members meet by electronic communication or in person, and the public is able to simultaneously attend and observe the meeting.
  - The memoranda for the meeting must state the name of each member who participated by electronic means or was absent, and identify the electronic means of communication by which the members of the body participated and the public attended and observed.

- All votes taken must be by roll call.<sup>3</sup>

If you have any questions about this alert, HEA 1437, Indiana's Open Door Law, or other public access laws, please contact **Christopher W. Bloomer**.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*

[1] <https://www.kriegdevault.com/insights/public-access-alert-new-law-permits-electronic-meetings-but-requires-planning>.

[2] Ind. Exec. Order No. 21-22 (Aug. 30, 2021), located at <https://www.in.gov/gov/files/Executive-Order-21-22-Eighteenth-Renewal-of-Emergency-Declaration.pdf>.

[3] Indiana Code § 5-14-1.5-3.7.