



COUNTY ADVISORY BULLETIN

CAB

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Bulletin 2014-02

July, 2014

JOINT BOARD OF COUNTY COMMISSIONERS HEARINGS

APPLICABLE LEGISLATION: S.B. 255 (130th General Assembly)

REVISED CODE SECTIONS EFFECTED: Enacted ORC Section 6133.041

LEAD SPONSORS: Senator Burke and Representatives Damschroder and Brown

HOUSE COSPONSORS: Adams, R., Amstutz, Anielski, Antonio, Baker, Blair, Boose, Boyd, Brenner, Buchy, Budish, Burkley, Duffey, Green, Grossman, Hackett, Hall, Hill, Letson, Milkovich, O'Brien, Rogers, Rosenberger, Sheehy, Slaby, Sprague, Winburn, Speaker Batchelder

SENATE COSPONSORS: Bacon, Brown, Eklund, Gardner, Hite, Hughes, LaRose, Manning, Peterson, Seitz, Uecker, Widener

EFFECTIVE DATE: July 10, 2014

BULLETIN SUMMARY

S.B. 155 authorizes a joint board of county commissioners to conduct hearings regarding existing joint county ditch improvements by video conference or teleconference. The act, supported by CCAO and the Ohio Newspaper Association, allows county commissioners to hold routine ditch improvement meetings without traveling outside their counties. The Association believes this will provide citizens greater access to these proceedings by removing the time and expense of travel to remote public hearings. The act enacts ORC Section 6133.041; this section is included as Exhibit 1.

BACKGROUND

The CCAO's Legislative Platform specifically supports this initiative. Under existing law (ORC Chapter 6133), when a proposed ditch improvement crosses county lines, the

members of the boards of county commissioners of the affected counties must form a joint board of county commissioners.

A petition for the improvement is filed with the commissioners' clerk of the county in which the majority of the proposed improvement is located. Then the board of county commissioners from each of the counties must meet in the county in which the petition was filed and organize a joint board of county commissioners.

The joint board of county commissioners may do all of the things that a board of county commissioners may do relating to a single county ditch improvement (ORC Chapter 6131). All decisions of the joint board are made by a majority vote of the county commissioners on the joint board. The Director of Natural Resources is a member ex officio of the joint board and may participate, either in person or through a designee, in deliberations and proceedings of the joint board, but the Director does not have a vote, except in case of a tie.

After the joint board views the improvement, all hearings must be held in the county in which the petition was filed.

SB 155 CHANGES

The bill authorizes a joint board of county commissioners, when practicable, to conduct proceedings regarding existing joint county ditch improvements by video conference or, if video conferencing is not available, by teleconference.

- The joint board must make arrangements to allow for public attendance at any location involved in the hearing.

For example, let us suppose that three counties are participating in a joint county ditch improvement. For purposes of illustration, the counties will be known as Counties A, B, and C. Commissioners from Counties A and B are able to participate in the video conference or the teleconference, but commissioners in County C are not able to participate. In this example, each county, including County C, must be prepared to accommodate any member of the general public or the news media that elects to attend the video conference or the teleconference and wishes to watch or listen to the meeting. This accommodation must be provided regardless of the number of commissioners from any of the three counties that is able to participate in the video conference or teleconference.

- The hearing must take place at the commissioner's main office or board room. The hearing must be in an open public meeting.

All elements of the sunshine law should be observed (ORC 121.22). This means that prior to holding the video conference or teleconference, notice must be provided to the public and the news media in each county in the same manner as if the board of commissioners was holding an in-person meeting of the board. This also means that if members of the news media or the public wished to record the proceedings they could do so in the same manner as if the meeting was a regular or special in-person meeting of the board.

In order for any commissioner of the joint board to participate via video or teleconference, the commissioner must be in the commissioners' main office or board room. A commissioner may not participate by phone outside the main office or board room of the board of commissioners.

- Before convening the meeting, designated staff must send, by electronic mail, facsimile, or United States postal service, a copy of meeting-related documents to each member of the joint board.
- The minutes of each joint county ditch meeting must specify who was attending by teleconference, who was attending by video conference, and who was physically present.

For purposes of keeping meeting minutes of the joint board of commissioners, CCAO suggests that the clerk that has been designated by the joint board of commissioners as responsible for mailing copies of meeting related documents to each member of the joint board be assigned the responsibility for recording and keeping a copy of the meeting minutes of the joint board. Although the law does not address this, the joint board of commissioners may decide to designate the clerk of the county in which the petition was filed as the clerk to mail the meeting related documents and the clerk to record and keep a copy of the meeting minutes of the joint board. The clerk to the board that is assigned the responsibility of recording and keeping meeting minutes should designate that county as the "host county" for purposes of determining which commissioners were "physically present," and which commissioners were attending by videoconference or teleconference with the names, counties, and teleconference connection of the other commissioners properly noted in the meeting minutes.

- Any vote taken in a meeting held by teleconference that is not unanimous must be recorded as a roll call vote.

The bill limits the proceedings of a joint board of county commissioners to existing improvements. The law makes no change to the types of improvements to which a joint board of commissioners may take action. Continuing law defines an "improvement" as including:

- The location, construction, reconstruction, reconditioning, widening, deepening, straightening, altering, boxing, tiling, filling, walling, arching, or any change in the course, location, or terminus of any ditch, drain, watercourse, or floodway;
- The deepening, widening, or straightening, or any other change in the course, location, or terminus of, a river, creek, or run;
- A levee or any wall, embankment, jetty, dike, dam, sluice, revetment, reservoir, holding basin, control gate, breakwater, or other structure for the protection of lands from the overflow from any stream, lake, or pond, or of any outlet, or for the storage or control of water;
- The removal of obstructions such as silt bars, log jams, debris, and drift from any ditch, drain, watercourse, floodway, river, creek, or run; and

- The vacating of a ditch or drain.

ACKNOWLEDEMENTS

The County Commissioners Association of Ohio expresses its gratitude to Dennis Hetzel, Executive Director of the Ohio Newspaper Association; and the numerous legislators who supported this legislative change including Senator Dave Burke, Representatives Rex Damschroder and Tim Brown.

Exhibit 1

Ohio Revised Code Section 6133.041

As Enacted by S.B. 155 of the 130th General Assembly

Sec. 6133.041. (A) Notwithstanding any other provision of this chapter or Chapter 6131. of the Revised Code to the contrary, a joint board of county commissioners, when practicable, may conduct proceedings regarding existing improvements by video conference or, if video conference is not available, by teleconference. The joint board shall make provisions for public attendance at any location involved in such a proceeding. The participation of any commissioner or board of county commissioners in a video conference or teleconference shall occur at the location of the commissioners' main office or board room in an open meeting at which the public is allowed to attend.

(B) Before convening a meeting of a joint board of county commissioners by video conference or by teleconference, designated staff shall send, via electronic mail, facsimile, or United States postal service, a copy of meeting-related documents to each member of the joint board.

(C) The minutes of each joint county ditch meeting shall specify who was attending by teleconference, who was attending by video conference, and who was physically present. Any vote taken in a meeting held by teleconference that is not unanimous shall be recorded as a roll call vote.

(D) Nothing in section 121.22 of the Revised Code prohibits a joint board of county commissioners from conducting a proceeding in a manner authorized by this section.