

PROPOSED AMENDMENT

HB 1338 # 3

DIGEST

Open door law. Amends the definition of "official action" under the open door law.

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.124-2022,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 2. For the purposes of this chapter:
6 (a) "Public agency", except as provided in section 2.1 of this
7 chapter, means the following:
8 (1) Any board, commission, department, agency, authority, or
9 other entity, by whatever name designated, exercising a portion of
10 the executive, administrative, or legislative power of the state.
11 (2) Any county, township, school corporation, city, town, political
12 subdivision, or other entity, by whatever name designated,
13 exercising in a limited geographical area the executive,
14 administrative, or legislative power of the state or a delegated
15 local governmental power.
16 (3) Any entity which is subject to either:
17 (A) budget review by either the department of local
18 government finance or the governing body of a county, city,
19 town, township, or school corporation; or
20 (B) audit by the state board of accounts that is required by
21 statute, rule, or regulation.
22 (4) Any building corporation of a political subdivision of the state
23 of Indiana that issues bonds for the purpose of constructing public
24 facilities.
25 (5) Any advisory commission, committee, or body created by
26 statute, ordinance, or executive order to advise the governing
27 body of a public agency, except medical staffs or the committees
28 of any such staff.

- 1 (6) The Indiana gaming commission established by IC 4-33,
2 including any department, division, or office of the commission.
- 3 (7) The Indiana horse racing commission established by IC 4-31,
4 including any department, division, or office of the commission.
- 5 (b) "Governing body" means two (2) or more individuals who are
6 any of the following:
- 7 (1) A public agency that:
- 8 (A) is a board, a commission, an authority, a council, a
9 committee, a body, or other entity; and
- 10 (B) takes official action on public business.
- 11 (2) The board, commission, council, or other body of a public
12 agency which takes official action upon public business.
- 13 (3) Any committee appointed directly by the governing body or
14 its presiding officer to which authority to take official action upon
15 public business has been delegated. An agent or agents appointed
16 by the governing body to conduct collective bargaining on behalf
17 of the governing body does not constitute a governing body for
18 purposes of this chapter.
- 19 (c) "Meeting" means a gathering of a majority of the governing body
20 of a public agency for the purpose of taking official action upon public
21 business. It does not include any of the following:
- 22 (1) Any social or chance gathering not intended to avoid this
23 chapter.
- 24 (2) Any on-site inspection of any:
- 25 (A) project;
- 26 (B) program; or
- 27 (C) facilities of applicants for incentives or assistance from the
28 governing body.
- 29 (3) Traveling to and attending meetings of organizations devoted
30 to betterment of government.
- 31 (4) A caucus.
- 32 (5) A gathering to discuss an industrial or a commercial prospect
33 that does not include a conclusion as to recommendations, policy,
34 decisions, or final action on the terms of a request or an offer of
35 public financial resources.
- 36 (6) An orientation of members of the governing body on their role
37 and responsibilities as public officials, but not for any other
38 official action.
- 39 (7) A gathering for the sole purpose of administering an oath of
40 office to an individual.

- 1 (8) Collective bargaining discussions that the governing body of
2 a school corporation engages in directly with bargaining
3 adversaries. This subdivision applies only to a governing body
4 that has not appointed an agent or agents to conduct collective
5 bargaining on behalf of the governing body as described in
6 subsection (b)(3).
- 7 (d) "Official action" means to:
- 8 (1) receive information, **if the information is received directly**
9 **by a governing body with authority to take final action on the**
10 **public business about which the information is received;**
- 11 (2) deliberate;
- 12 (3) make recommendations;
- 13 (4) establish policy;
- 14 (5) make decisions; or
- 15 (6) take final action.
- 16 (e) "Public business" means any function upon which the public
17 agency is empowered or authorized to take official action.
- 18 (f) "Executive session" means a meeting from which the public is
19 excluded, except the governing body may admit those persons
20 necessary to carry out its purpose. The governing body may also admit
21 an individual who has been elected to the governing body but has not
22 been sworn in as a member of the governing body.
- 23 (g) "Final action" means a vote by the governing body on any
24 motion, proposal, resolution, rule, regulation, ordinance, or order.
- 25 (h) "Caucus" means a gathering of members of a political party or
26 coalition which is held for purposes of planning political strategy and
27 holding discussions designed to prepare the members for taking official
28 action.
- 29 (i) "Deliberate" means a discussion which may reasonably be
30 expected to result in official action (defined under subsection (d)(3),
31 (d)(4), (d)(5), or (d)(6)).
- 32 (j) "News media" means all newspapers qualified to receive legal
33 advertisements under IC 5-3-1, all news services (as defined in
34 IC 34-6-2-87), and all licensed commercial or public radio or television
35 stations.
- 36 (k) "Person" means an individual, a corporation, a limited liability
37 company, a partnership, an unincorporated association, or a
38 governmental entity.
- 39 (l) "State educational institution" has the meaning set forth in
40 IC 21-7-13-32.

- 1 (m) "Charter school" has the meaning set forth in IC 20-24-1-4. The
- 2 term includes a virtual charter school (as defined in IC 20-24-1-10).".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1338 as reprinted January 19, 2024.)