TO: Indiana Public Libraries

FROM: Indiana State Library

RE: **HEA 1437**

DATE: 4/22/2021-original memo date (updated 8/2/2021)

On Tuesday, April 20th, 2021, Governor Holcomb signed HEA 1437, an Act involving electronic meetings and signatures. HEA 1437 is effective immediately. Here is how it affects Indiana’s public libraries:

**Meetings**

Library board members may participate in meetings electronically as long as the library uses technology that permits simultaneous communication between board members and that also permits the public to simultaneously attend and observe the meeting. (The library is not required to permit the public to attend executive sessions held electronically)

Board members attending electronically may be counted present and may vote on matters presented before the board. However, the board member must be able to be both seen and heard in order to participate in any final action (vote). All votes taken at during a meeting with electronic attendees must be taken by roll call vote.

At least half of the library board must be present in person at each meeting. So, for a typical 7-member library board, that means at least 4 must attend the meeting in person.

Board members may not attend more than half of the library board meetings during any given year electronically unless the reason is due to:

* military service;
* illness or other medical condition;
* death of a relative; or
* an emergency involving actual or threatened injury to persons or property.

Electronic participation in meetings is not permitted if the board is attempting to take final action to:

* Adopt a budget;
* Make a reduction in personnel;
* Initiate a referendum;
* Establish or increase a fee;
* Establish or increase a penalty;
* Use eminent domain authority, or
* Establish, raise, or renew a tax.

If the board plans a meeting where one of the above topics is on the agenda, board members must attend that meeting in person. If in-person attendance is not possible for members, the topic for which electronic attendance is prohibited could be set aside and scheduled for a separate meeting. It is not permissible to just have the board member not participate for that part of the meeting where electronic attendance is prohibited. The Public Access Counselor consulted with the bill’s author on this to verify intent.

If the board or a member of the public experiences technology failure during the meeting, this won’t prevent the meeting from continuing and won’t invalidate board actions or votes as long as there is a quorum of members still able to participate and as long as the voting requirements of the board bylaws/policies are met.

The library board must adopt a written policy establishing procedures for electronic participation. The procedures may be more restrictive than the law but not less. The policy may include:

* a limitation on the number of board members who may participate by electronic communication in any one meeting. Remember at least half must be present in person by law;
* a limitation on the total number of meetings that the governing body may conduct by electronic communication;
* a requirement for members to notify the board president within a certain period of time before the meeting, to advise that the member will be attending electronically, so that the board can ensure the appropriate notice and technology measures are put in place. (This requirement would be excused for meetings called to deal with emergencies);

The board cannot prohibit a member from attending consecutive meetings by electronic communication. A board member may attend two consecutive meetings by electronic communication and then must attend at least one meeting in person before attending another meeting electronically unless the reason for attending electronically is due to:

* military service;
* illness or other medical condition;
* death of a relative; or
* an emergency involving actual or threatened injury to persons or property.

Meeting memoranda (minutes) for a meeting where a board member attends electronically must:

* state the name of each board member
  + who was present in person;
  + who attended the meeting by electronic means; and
  + who was absent, and
* identify the electronic communication mechanism used for the meeting.

**During Disaster Emergencies Declared by the Governor or Local Government Officials**

The board may meet completely electronically until the disaster or emergency is terminated.

During such disaster emergency, the board may meet using any form of electronic communication as long as the meeting meets the following criteria:

* At least a quorum of the board are participating in the meeting either in person or electronically;
* the public is able to simultaneously attend and observe the meeting (unless it is an executive session); and
* votes are taken by roll call vote.

Meeting memoranda for an electronic meeting during a disaster emergency must:

* state the name of each board member who attended electronically and who was absent; and
* identify the electronic communication mechanism used for the meeting.

**Electronic Signatures**

If a statue requires a manual signature for attesting or authenticating an obligation issued by the library (bond, note, warrant, or other obligation), an electronic signature will have the same force and effect as a manual signature.