

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 823

(Delegate Morales, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

General Provisions - Open Meetings Act - Annual Reporting Requirement, Web
Site Postings, and Training

This bill requires each public body to designate at least one member of the public body with the authority to close a meeting to receive training on the requirements of the Open Meetings Law; within 90 days of being so designated, the individual must complete a “class on the Open Meetings Law” (OML). At least one individual who has completed the class must be present at each open meeting of the public body, subject to a specified exception. The bill also establishes various requirements for the State Open Meetings Law Compliance Board.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances. The classes required by the bill are already offered free of charge to employees of public bodies. The Office of the Attorney General (OAG) can implement the bill with existing budgeted resources. No effect on revenues.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: “Class on the Open Meetings Law” means:

- an online class on the requirements of OML offered by OAG and the University of Maryland’s Institute for Governmental Service and Research; or
- a class on the requirements of OML offered by the Maryland Association of Counties (MACo) or the Maryland Municipal League (MML) through the Academy for Excellence in Local Governance.

The board must collaborate with MACo, MML, and the University of Maryland’s Institute for Governmental Service and Research to:

- implement a process for reporting to the board the names of individuals who complete the class on OML; and
- develop a list of contacts at each public body to whom the board can send educational and other related materials.

By December 1, 2016, the board must report to designated committees of the General Assembly on the results of its collaboration.

In addition to developing and conducting educational programs on OML, which it must do under current law, the board must also distribute educational materials on the requirements of the law.

In its annual report to the Governor and General Assembly, the board must identify (1) each public body that violates OML; (2) the nature of each violation; and (3) the number of violations of each OML provision. If the board determines that a public body has violated OML, the board must post specified information on its website.

Current Law: Under Maryland’s Open Meetings Act, with limited exceptions, a “public body” must (1) provide adequate notice of the time and location of meetings and (2) meet in open session in a location that is reasonably accessible to attendees. A public body is any entity that (1) consists of at least two individuals and (2) is created by the Maryland Constitution; a State statute; a county or municipal charter; a memorandum of understanding or a master agreement to which a majority of the county boards of education and the Maryland State Department of Education are signatories; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political subdivision. Exclusions from the definition of “public body” include juries, the Governor’s cabinet and Executive Council, judicial nominating commissions, and single-member entities, among others.

The State Open Meetings Law Compliance Board is required to receive, review, and resolve complaints from any person alleging a violation of the Open Meetings Act, issue a written opinion as to whether a violation has occurred, and ensure compliance with the Open Meetings Act. The board, in conjunction with OAG, must develop and conduct educational programs on the requirements of the open meetings law for the staffs and attorneys of public bodies, MML, and MACo. Annually by October 1, the board must submit a report to the Governor and the General Assembly describing:

- the activities of the board;
- the opinions of the board in any cases brought before it;
- the number and nature of complaints filed with the board, including a discussion of complaints concerning the reasonableness of the notice provided for meetings; and
- any recommendations for improvements to the provisions of the Open Meetings Act.

Each public body must (1) designate at least one of its employees, officers, or members to receive training on the requirements of the open meetings law and (2) forward a list of designated individuals to the State Open Meetings Law Compliance Board. Within 90 days after designation, a designated individual must complete either (1) an online class on the requirements of the open meetings law offered by OAG and the University of Maryland's Institute for Governmental Service and Research or (2) a class on the requirements of the open meetings law offered by MACo or MML through the Academy for Excellence in Local Governance.

The opinions of the State Open Meetings Compliance Board, which handles complaints alleging violations of the Open Meetings Act, are advisory only. The board may not require or compel any specific actions by a public body.

Under specified circumstances, if a public body fails to comply with specified provisions of the Open Meetings Act, a person may file a petition in a circuit court. However, a written opinion of the board may not be introduced as evidence in such a proceeding. A member of a public body that willfully participates in a meeting of the body with knowledge that the meeting is being held in violation of the Open Meetings Act is subject to a civil penalty of up to \$250 for the first violation and up to \$1,000 for each subsequent violation occurring within three years after the first violation.

Background: The [2015 Annual Report of the Open Meetings Compliance Board](#) reports there were 34 new complaints submitted during fiscal 2015.

Additional Information

Prior Introductions: None.

Cross File: SB 598 (Senators Manno and Madaleno) - Education, Health, and Environmental Affairs.

Information Source(s): Office of the Attorney General; Department of Health and Mental Hygiene; Maryland State Department of Education; Department of Labor, Licensing, and Regulation; University System of Maryland; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510