

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 598 (Senators Manno and Madaleno)  
Education, Health, and Environmental Affairs

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General Provisions - Open Meetings Act - Enforcement and Training

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This bill authorizes the State Open Meetings Law Compliance Board to issue an order requiring a public body to take corrective action and to impose civil penalties up to \$500 per violation. The opinions of the board are no longer advisory. The bill also requires each employee, official, or member of a public body to complete an online class on the requirements of the Open Meetings Law within 90 days of employment or membership. Existing public employees, officials, and members must complete training on or before September 30, 2017.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State finances, as discussed below.

**Local Effect:** The bill does not materially affect local government operations or finances. The bill's requirement for public employees to complete training can be handled with existing budgeted resources. The bill's penalty provision is not expected to materially affect local revenues.

**Small Business Effect:** None.

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Analysis

**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 the Office of the Attorney General (OAG), must develop and conduct educational programs on the requirements of the open meetings law for the staffs and attorneys of public bodies, the Maryland Municipal League (MML), and the Maryland Association of Counties (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 the Office of the Attorney General 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.

**State/Local Fiscal Effect:** The University of Maryland's Institute for Governmental Service and Research provides the online training class to the public at no charge, so requiring all employees, officials, or members of a public body to complete that class, or one offered by MML or MACO, has no material fiscal impact.

The exact impact of the bill's monetary penalty depends on the number and nature of violations that are found and imposed by the board, instead of through the circuit court. However, because relatively few complaints alleging violations of the Open Meetings Act are received each year and the bill's penalty provision is similar to existing ones through the circuit court, the bill is not expected to materially affect State or local penalty revenues.

Also, given the limited number of complaints filed, OAG is likely to be able to monitor compliance with the board's orders with existing resources. The Department of Legislative Services notes, however, that the board does not receive an appropriation in the State's annual operating budget; OAG provides staff for the board with existing resources. To the extent a part-time administrative staff within OAG is needed, general fund expenditures increase by approximately \$30,000 annually.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 823 (Delegate Morales, *et al.*) - Health and Government Operations.

**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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