

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled

Senate Bill 450

(Senator Manno)

Education, Health, and Environmental Affairs

Health and Government Operations

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

This bill alters several procedures and reporting requirements of the Open Meetings Act related to (1) the authority of public bodies to go into closed session; (2) procedures and training options for public bodies under the Open Meetings Act; (3) the Open Meetings Law Compliance Board's (OMCB) reporting of violations of the Open Meetings Act; and (4) the distribution of educational materials to public bodies. A public body in the Judicial Branch, or that is subject to governance by rules adopted by the Court of Appeals, is exempt from the bill. The bill also requires OMCB and other specified entities to collaborate and conduct research on open meetings issues related to the distribution of educational materials and the costs and benefits of tracking individual compliance with the Open Meetings Act.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: OMCB can handle the bill's requirements with existing budgeted resources. Revenues are not affected.

Local Effect: Local governments can handle the bill's requirements with existing resources.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Open Meetings Act, Generally

Current Law: Under Maryland’s Open Meetings Act, with limited exceptions, a public body must (1) provide reasonable advance 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.

Classes and Educational Materials

Current Law: 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 Act and (2) forward a list of designated individuals to the board. Within 90 days after designation, a designated individual must complete a class on the requirements of the open meetings law offered either by (1) the Office of the Attorney General (OAG) and the University of Maryland’s Institute for Governmental Service and Research or (2) the Maryland Association of Counties (MACo) or the Maryland Municipal League (MML) through the Academy for Excellence in Local Governance. The classes are offered online at no charge and last between 30 and 60 minutes. OMCB, 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.

The Bill: The bill expands the list of Open Meetings Law class options available to an employee, officer, or member of a public body designated to receive training, to include a class offered by the Maryland Association of Boards of Education (MABE) through the Boardmanship Academy Program. The bill also repeals the requirement that a public body forward a list of the designees for training to OMCB and requires OMCB to distribute educational materials outlining the requirements of the Open Meetings Act to public bodies, MML, MACo, and MABE.

Closed Sessions

Current Law: Before meeting in open or closed session, a public body must provide reasonable advance notice of the session. Whenever reasonable, the advance notice must be in writing; include the date, time, and place of the session; and, if appropriate, include a statement that a part or all of a meeting may be conducted in closed session.

The Bill: Beginning October 1, 2017, a public body may not meet in *closed* session unless at least one member of the body has been designated to receive training on the requirements of the Open Meetings Law. If at least one such individual cannot be present at an *open* meeting of the public body, the body must complete a specified compliance checklist developed by OAG and include the checklist in the meeting minutes.

Publication of Violations of the Open Meetings Act

Current Law: OMCB is required to receive, review, and resolve complaints from any person alleging a violation of the Open Meetings Act and issue a written opinion as to whether a violation has occurred. The opinions of the board are advisory only. The board may not require or compel any specific actions by a public body. OMCB, must submit a report to the Governor and the General Assembly annually by October 1, 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.

The Bill: OMCB must include additional information in its annual report; specifically, it must identify (1) each public body that the board has found to have violated the Open Meetings Act; (2) the specific provisions of law that have been violated; and (3) the number of times each provision has been violated. In addition, OMCB must post, on the Open Meetings Act page of OAG's website, the names of any public bodies determined to have violated the Open Meetings Act and the opinion that describes the violation.

Research Requirements

Under the bill, OMCB, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public Policy must conduct research on specified topics in collaboration with the following entities:

- (1) MACo, MML and MABE – to develop a list of contacts within public bodies to whom OMCB may send the educational materials, the compliance checklist, the OMCB annual report, and any other information OMCB determines would be useful to a public body in assisting with compliance with the Open Meetings Act; and
- (2) MACo, MML, MABE, Maryland Common Cause, and the Maryland-Delaware-District of Columbia Press Association – to conduct a cost-benefit analysis of tracking the names and affiliations of the individuals who complete a class on the Open Meetings Act.

The entities must report the findings of the results of the cost-benefit analysis and the status of developing the list of contacts to specified legislative committees by December 1, 2017.

Background: The University of Maryland’s Institute for Governmental Service and Research provides an online training class on the Open Meetings Act to the public at no charge. According to the institute, 271 users in 2016 initiated training on the online system and completed the course successfully.

Additional Information

Prior Introductions: None.

Cross File: HB 880 (Delegate Morales, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Maryland State Department of Education; Maryland Department of the Environment; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Department of Legislative Services

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