

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 243

(Howard County Delegation)

Ways and Means

Education, Health, and Environmental Affairs

Howard County Board of Education - Application of the State Open Meetings Act – Clarification
Ho. Co. 7-03

This bill requires the Howard County Board of Education to carry out executive functions at open meetings. Only actions authorized in the State Open Meetings Act may be taken at closed meetings.

The bill is effective October 1, 2003 and sunsets September 30, 2005.

Fiscal Summary

State Effect: None.

Local Effect: None. Requiring the Howard County Board of Education to take more actions at meetings open to the public would not impact county finances.

Small Business Effect: None.

Analysis

Current Law: All final actions of a local board of education must be taken at a public meeting and the minutes of the meeting must be made available to the public. A local board may meet and deliberate in a closed executive session if it is considering land and site acquisitions or personnel and labor relations.

The State Open Meetings Act provides that, in certain circumstances, meetings may be closed to:

- discuss certain personnel matters;
- protect the privacy or reputation of individuals;
- consider certain business matters;
- consult with counsel, staff, consultants, or other individuals;
- conduct collective bargaining negotiations;
- discuss public security; or
- conduct or discuss an investigative proceeding relating to criminal conduct.

The Howard County Board of Education may take actions in closed session in accordance with the State Open Meetings Act, including action to close a meeting. To close a meeting under the Act, a majority of the members present and voting must vote in favor of closing the meeting. The presiding officer must make a written statement of the reason for closing the meeting, and the statement must include a listing of the topics to be discussed. The Act does not apply when a public body is carrying out an executive function.

If the State Open Meetings Act and another law relating to public meetings are in conflict, the State Open Meetings Act applies unless the other law is more stringent.

Background: There are a number of sections of law that seem to be in conflict regarding the use of closed meetings by the Howard County Board of Education, and it is unclear which law applies. A January 2002 letter from the Attorney General's Office suggested that legislative clarification on this topic is in order.

There is a lawsuit pending against the Howard County Board of Education in which the plaintiff alleges that the board has violated State open meetings requirements. In addition, a complaint by the Howard County Parent-Teacher Association was recently heard by Maryland's Open Meeting Compliance Board. The board ruled that the board of education did not violate the State Open Meeting Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard County, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2003
mld/hlb Revised - House Third Reader - March 22, 2003

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