

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 111

(Senator Hollinger)

Education, Health, and Environmental Affairs

Health and Government Operations

State Government - Open Meetings Act - Public Body

This bill alters the definition of a “public body” under Maryland’s Open Meetings Act. The bill requires a public body to include specified information when filing a response to a complaint and to retain specified documents.

Fiscal Summary

State Effect: Any change in State activities to enforce or comply with the bill’s provisions would not materially affect State finances.

Local Effect: Any change in local government activities to comply with the bill’s provisions would not materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the definition of a “public body” to include a multimember board, commission, or committee appointed by an official who is subject to the policy direction of the Governor or chief executive authority of a political subdivision. The bill excludes from the definition of a public body a subcommittee of a public body, unless the subcommittee is created by the Maryland Constitution; a State statute; a county charter; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political subdivision.

The bill requires a public body, on the request of the Open Meetings Compliance Board, to include with its written response to a complaint filed with the board a copy of: (1) the written notice of the meeting; (2) a written statement by the presiding officer of the public body of the reason for closing the meeting; and (3) the minutes and any tape recording of the meeting. The bill also requires a public body to retain, for at least one year after the date of the session, a copy of: (1) the advance notice of the meeting; (2) the minutes and any tape recording of a meeting; and (3) a written statement of the reason for meeting in closed session. The bill broadens the authorization, to include all sessions, to tape record a session.

Current Law: Under Maryland’s Open Meetings Act, with limited exceptions, a “public body” must meet in open session. 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 charter; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political subdivision. Included in the definition of a public body are any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision if the entity includes in its membership at least two individuals not employed by the State or a political subdivision. Exclusions from the definition of “public body” include juries, the Governor’s cabinet and Executive Council, and single member entities. Subcommittees of public bodies are not among the listed exemptions.

Any person may file a written complaint with the Open Meetings Compliance Board seeking the board’s written opinion on the application of the Open Meetings Act to the actions of a public body. When a complaint is filed with the board, the board must send the complaint to the public body identified in the complaint. The public body must then file a written response within 30 days after receiving the complaint. If the public body has not responded to the complaint within 45 days, the board must decide the case on the facts before it.

Before a public body meets in either open or closed session, it must give reasonable advance notice of the session. The notice must be in writing and include: (1) the date, time, and place of the meeting; and (2) a statement, if appropriate, that all or part of the meeting will be in closed session.

A public body must keep minutes of its meetings, whether in open or closed session. A closed session may be tape recorded. A public body must retain the minutes and any tape of a closed session meeting for one year.

Closed session meetings of public bodies are permitted under limited circumstances, including the discussion of specified personnel matters, the acquisition of real property for a public purpose, specified expenditures, and consulting with legal counsel.

Background: The bill reflects recommendations made by the Open Meetings Compliance Board.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Charles County, Office of the Attorney General, Department of Legislative Services

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