

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 73 (Delegates Bobo and Leopold)
Health and Government Operations Education, Health, and Environmental Affairs

Open Meetings Act - Standing to File a Petition Alleging Violation of the Act

This bill authorizes any person to file with a circuit court that has venue a petition that asks the court to determine the applicability of open session requirements under the State's Open Meetings Act, require the public body to comply with those requirements, or void the public body's action.

Fiscal Summary

State Effect: Assuming the number of cases brought under the bill is small, the State's costs to defend against such claims could be absorbed within existing budgeted resources.

Local Effect: Assuming the number of cases brought under the bill is small, the Judiciary's costs to try as well as the local governments' costs to defend against such claims could be absorbed within existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: Only a person adversely affected by a public body's failure to comply with the open session requirements under the State's Open Meetings Act may bring an action to determine the applicability of those requirements, require the public body to comply with them, or void the public body's action.

Under the Open Meetings Act, a public body must meet in open session unless otherwise authorized. Before a meeting in a closed or open session, a public body must give

advance written notice of the meeting. The general public is entitled to attend meetings in open session, although an individual may be removed for disruptive behavior. 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. The exceptions to the open session requirements are strictly construed in favor of open meetings of public bodies. A public body must keep minutes of its meetings.

Under the Open Meetings Act, a “public body” is an 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; an executive order of the Governor; or an executive order of the chief executive authority of a political subdivision. Juries, single member entities, and judicial nominating commissions are excluded from the definition of a public body.

Additional Information

Prior Introductions: None.

Cross File: SB 87 (Senators Frosh and Garagiola) – Education, Health, and Environmental Matters.

Information Source(s): Montgomery County, Prince George’s County, Caroline County, Calvert County, Howard County, Judiciary (Administrative Office of the Courts), Baltimore City, Office of the Attorney General, Department of Legislative Services

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ncs/hlb

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