

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1242

(Delegate Weldon)

Health and Government Operations

Education, Health, and Environmental Affairs

Open Meetings Act

This bill makes several changes to the Open Meetings Act, as follows:

- includes under the definition of “advisory function” bodies under a delegation of responsibility by an official subject to the policy direction of the Governor or the chief executive officer of a political subdivision of the state;
- provides that, if a complaint is filed against a public body that no longer exists, the compliance board must send the complaint to the official or entity that appointed the public body; and
- provides that a public body may give notice of meetings by posting information on its Internet website, if the body has previously given notice that this method will be used.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: None. The changes would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, a public body must meet in open session unless authorized to do otherwise. When meeting in open session a public body is required to provide notice of the meeting. The public are entitled to attend open meetings. Under specified circumstances, the Executive and Legislative branches of State government must provide interpreters for the deaf. Public bodies may conduct closed sessions under specified circumstances, including discussing employment matters, consulting with legal counsel, and considering the investment of public funds. Public bodies are required to keep meeting minutes.

Before meeting in open or closed session, a public body must provide reasonable advance notice of the session. This notice may be made by publication in the Maryland Register, delivery to members of the news media, by posting notice at a convenient public location near the place of the session, or by other reasonable means. The body may only give notice by posting in a public place if it had previously given public notice that this method would be used.

The State's Open Meetings Act does not apply to: (1) a public body when it is carrying out an administrative function, a judicial function, or a quasi-judicial function; or (2) a chance encounter, social gathering, or other occasion that is not intended to circumvent the Act. Chapter 584 of 2006 clarified the meaning of these exceptions, replacing "executive function," with "administrative function." Chapter 584 also set forth reporting requirements for when a public body recesses an open meeting to carry out an administrative function in a meeting not open to the public.

The State Open Meetings Law Compliance Board, consisting of three members appointed by the Governor, is charged with resolving complaints alleging a violation of the Act. Members serve three-year staggered terms; a member may not serve more than two consecutive three year terms.

Upon receiving a complaint, the board must send it promptly to the body identified, which must respond in writing within 30 days of receipt.

If a public body fails to comply with the Open Meetings Act, an individual who has been adversely affected may file a petition with a circuit court asking the court to require the body to comply with the action, and void the action of the public body. A member of a public body who willfully participates in a meeting of the body in violation of the Act is subject to a civil penalty not to exceed \$100.

Background: Chapter 533 of 2005 required the Open Meetings Compliance Board to study the use of the executive function by public bodies. Chapter 584 of 2006 implemented the recommendations of that study.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office, Office of the Attorney General, Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2007
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