

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 557

(Senator Getty)

Education, Health, and Environmental Affairs

Health and Government Operations

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**Open Meetings Act - Public Body - Definition**

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This bill expands the definition of “public body” for the purposes of the Open Meetings Act to include an entity that is created by a memorandum of understanding or a master agreement to which a majority of the local boards of education and the Maryland State Department of Education (MSDE) are signatories. By December 1 in every even-numbered year, MSDE must report to the House Ways and Means Committee and the Senate Education, Health, and Environmental Affairs Committee regarding the activities and decisions of the Maryland Public Secondary Schools Athletic Associations (MPSSAA).

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**Fiscal Summary**

**State Effect:** MSDE can report on the activities and decisions of MPSSAA using existing resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** MPSSAA is not formally established in State law or regulations. MPSSAA is created by a master agreement signed by the local superintendents of schools.

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 or municipal 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. Exclusions from the definition of “public body” include juries, the Governor’s cabinet and Executive Council, and single-member entities.

**Background:** MPSSAA was organized by local school authorities in 1946 in order to bring some greater structure to the conduct of interscholastic athletics among the public secondary schools in Maryland. MPSSAA’s goal is to promote, direct, and regulate interscholastic athletics of the public high schools and ensure a safe and educationally balanced athletic program. It derives its authority from MSDE and the 24 local school systems. Currently, MPSSAA includes 195 public high schools, with over 114,000 student athletes participating in 24 sports.

MPSSAA is a self-sufficient organization that does not receive revenue or funds from the State, school dues, tournament entry fees, or publication fees. MPSSAA generates its revenue from gate receipts for selected regional and State tournament games.

In response to a complaint that MPSSAA violated the Open Meetings Act by holding an unlawfully closed session, the Open Meetings Compliance Board found that MPSSAA is not a public body subject to the Open Meetings Act (4 Official Opinions of the Compliance Board 43 (2004)). Specifically it found that, “[t]here is no evidence that the creation of the MPSSAA was attributable to a resolution or other formal action of the State Board of Education.” In 1991, the State board by resolution *recognized* the role MPSSAA plays in interscholastic athletics, but that does not make it a public body according to the compliance board.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Open Meetings Compliance Board, Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2012  
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