

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 230 (Senators Getty and Ferguson)
Education, Health, and Environmental Affairs Health and Government Operations

Open Meetings Act - Public Body - Definition

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.

Fiscal Summary

State Effect: None. The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The Maryland Public Secondary Schools Athletic Association (MPSSAA) is not formally established in State law or regulations. Rather, 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 (1) provide adequate notice of the time and location of meetings and (2) meet in open session in a location that is reasonably accessible to attendees. 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 to provide greater structure for 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 conducts programs for 114,000 student athletes, 9,000 coaches, and 6,000 officials.

MPSSAA is a self-sufficient organization that does not receive revenue or funds from the State, school dues, tournament entry fees, or publication fees. Rather, 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 State Open Meetings Law 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, according to the compliance board, that does not make it a public body.

Additional Information

Prior Introductions: SB 557 of 2012 passed the Senate with amendments and received a favorable report from the House Health and Government Operations Committee, but no further action was taken.

Cross File: None.

Information Source(s): Office of the Attorney General, Maryland State Department of Education, State Open Meetings Law Compliance Board, Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2013
mlm/lgc Revised - Senate Third Reader - March 11, 2013

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