

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 826 (Senators Kittleman and Robey)
Education, Health, and Environmental Affairs

Open Meetings Act - Violations and Penalties

This bill specifies that, if the State Open Meetings Compliance Board determines that a violation of the Maryland Open Meetings Act has occurred, (1) a member of the public body must, at the public body's next open meeting after the board has issued its opinion, announce the violation and orally summarize the opinion and (2) a majority of the public body's members must sign (and return to the board) a copy of the opinion. The public body may not designate its counsel or another representative to provide the announcement and summary. Compliance with these provisions does not constitute an admission to a violation of the Act and may not be used as evidence in a specified proceeding. The bill also repeals a prohibition on the introduction of a written opinion of the board as evidence in a proceeding conducted before a circuit court under the Act. In addition, the bill increases the civil penalty for meeting in violation of the Act from up to \$100 to (1) up to \$250 for the first violation and (2) up to \$1,000 for each subsequent violation occurring within three years after the first violation. When determining the amount of a fine, the court must consider the financial resources of the public body.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local government finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law: 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.

The opinions of the State Open Meetings Compliance Board, which handles complaints alleging violations of the Act, are advisory only. The board may not require or compel any specific actions by a public body.

Under specified circumstances, if a public body fails to comply with specified provisions of the Act, a person may file a petition in a circuit court. However, a written opinion of the board may not be introduced as evidence in such a proceeding.

A member of a public body that willfully participates in a meeting of the body with knowledge that the meeting is being held in violation of the Act is subject to a civil penalty of up to \$100.

The State Open Meetings Compliance Board advises that, in fiscal 2012, it received 28 complaints alleging violations of the Act.

State/Local Fiscal Effect: The exact impact of the bill’s increased monetary penalties depends on the number and nature of violations that are found. However, because relatively few complaints alleging violations of the Open Meetings Act are received each year, the bill is not expected to materially affect government finances or operations.

A public body can use existing resources to provide the required notice and summary.

The bill’s change regarding the introduction of the written opinion as evidence in a proceeding is procedural in nature and does not directly affect governmental finances.

Additional Information

Prior Introductions: None.

Cross File: HB 331 (Delegate Morhaim, *et al.*) - Health and Government Operations.

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

Fiscal Note History: First Reader - February 10, 2013
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