

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 474

(Senator Benson, *et al.*)

Education, Health, and Environmental Affairs

Environment and Transportation

Ethics - Local Public Ethics Commissions and Entities - Meeting and Reporting
Requirements

This bill requires each local ethics commission or appropriate entity to meet at least once annually and establishes additional reporting requirements. On or before October 1 of each year, each local ethics commission or appropriate entity must report the following information to its respective local governing body: (1) the number of meetings held during the past year; (2) written copies of meeting agendas and minutes from each meeting; (3) a copy of the signed and dated attendance sheet from each meeting; and (4) any other documents or information determined by the local ethics commission or appropriate entity to show the work performed during the previous year.

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: The bill's requirements can be handled with existing budgeted resources, as discussed below.

Small Business Effect: None.

Analysis

Current Law: "Appropriate entity" means the entity designated by a local jurisdiction to administer the ethics provisions adopted by the local jurisdiction if it does not establish its own local ethics commission.

Maryland Public Ethics Law

No detailed reporting is required under the Maryland Public Ethics Law for local or municipal ethics entities; however, by October 1 of each year, each local ethics commission or appropriate entity must certify to the State Ethics Commission (SEC) that the county or municipal corporation is in compliance with the ethics requirements for elected local officials.

The Maryland Public Ethics Law generally requires each county, municipality, and local school board to enact provisions governing the public ethics of local officials related to conflicts of interest, financial disclosure, and lobbying. SEC is required to adopt by regulation, model provisions for local governments and school boards on these subjects. A local jurisdiction or school board may adopt the model provisions or enact its own provided it meets the requirements in State law, which generally require local ethics provisions to be equivalent to, similar to, or substantially similar to the Maryland Public Ethics Law, as specified.

SEC may also *impose* model provisions on a local entity in the case of noncompliance. If SEC determines that a county or municipal corporation has not complied with and has not made good-faith efforts toward compliance with the requirements of the Maryland Public Ethics Law, SEC may issue a public notice concerning the failure of compliance, including a listing of specific areas of noncompliance, and may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance. The circuit court may grant any available equitable relief.

Open Meetings Act

Under Maryland's Open Meetings Act, with limited exceptions, a "public body" must (1) provide reasonable advance notice of the time and location of meetings, including whether any portion of the meeting will be in closed session 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; a memorandum of understanding or a master agreement to which a majority of the county boards of education and the Maryland State Department of Education are signatories; 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, judicial nominating commissions, and single-member entities, among others.

Generally, a public body must make an agenda available to the public prior to meeting in an open session. The agenda must include known items of business or topics to be

discussed at the meeting and indicate whether the public body expects to close any portion of the meeting in accordance with State law. The agenda does not have to contain any information pertaining to the closed portion of the meeting. If a public body is unable to comply with specified deadlines for the release of meeting agendas because the meeting is scheduled in response to an emergency or any other unanticipated situation, the public body must make available, on request, an agenda within a reasonable time after the meeting occurs.

As soon as practicable after each open session, a public body must prepare minutes of the meeting. The minutes must reflect each item that the public body considered, the action it took on each item, and each vote that was recorded. If meeting in closed session, the minutes for a public body's next open session must include a summary that includes specified information about the proceedings of the closed meeting. Minutes of each meeting must be made available to the public during normal business hours and must be retained by the public body for at least five years.

Local Expenditures: The bill's requirements can be handled with existing resources. Several jurisdictions advise that they already comply with some portions of the bill's provisions. For example, the City of Annapolis advises that the Annapolis City Ethics Commission publicly posts on the city's website the agendas, minutes, and calendar year annual reports which identify the commission's activities and meeting attendance information. The City of Bowie advises that its ethics commission meets more than three times per year and provides an annual report to the mayor and city council. Montgomery County advises that much of the information required by the bill is already accessible online.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties, cities of Annapolis and Bowie; State Ethics Commission; Department of Legislative Services

Fiscal Note History:
mm/kdm

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Revised - Amendment(s) - March 20, 2018

Revised - Clarification - March 20, 2018

Analysis by: Michelle Davis

Direct Inquiries to:

(410) 946-5510

(301) 970-5510