

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 984

(Senator Zucker, *et al.*)

Education, Health, and Environmental Affairs

General Provisions - Open Meetings Act - Application to Governor's Cabinet and Governor's Executive Council

This bill alters the definition of “public body” under the Open Meetings Act to include the Governor’s Cabinet and the Governor’s Executive Council, including any committee of the executive council. The bill (1) requires each open session of the cabinet, council, or council committee, to be streamed live and (2) authorizes the cabinet and the council to meet in closed session for “cause,” provided that the procedure specified in existing law for meeting in closed session is adhered to.

Fiscal Summary

State Effect: General fund expenditures increase by \$7,500 in FY 2019 to live stream the cabinet and council meetings; out-year costs reflect annualization. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	7,500	10,000	10,000	10,000	10,000
Net Effect	(\$7,500)	(\$10,000)	(\$10,000)	(\$10,000)	(\$10,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

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.

The Governor's Cabinet and Executive Council, among other specified entities, are specifically excluded from the definition of a "public body" under the Act. As a result, they are not required to meet in open session.

Closed Sessions

Under the Open Meetings Act, a public body may meet in closed session only to discuss specified topics and may not meet in closed session unless:

- a majority of the members present and voting vote in favor of closing the session; and
- at least one member of the body has been designated to receive training on the requirements of the Open Meetings Law.

Before a public body meets in closed session, the presiding officer must (1) conduct a recorded vote on the closing of the session and (2) make a written statement of the reason for closing the meeting, including a citation of the authority under the Open Meetings Act, as specified, and a listing of topics to be discussed. If a person objects to the closing of a session, the public body must send a copy of the written statement to the Open Meetings Law Compliance Board. A written statement sent to the board is a public record, and the public body must keep a copy of the statement for at least one year after the date of the closed session.

A public body that meets in closed session may not discuss or act on any matter not covered by the specific exceptions in the Open Meetings Law.

Minutes

As soon as practicable after each open session, a public body must prepare minutes of the meeting. The minutes must (1) reflect each item that the public body considered, the action it took on each item, and each vote that was recorded and (2) be made available to the public during normal business hours and be retained by the public body for at least five years. If meeting in closed session, the minutes and any recording of the closed session must be sealed and may not be open to public inspection unless the closed meeting was for the purpose of discussing investments or public securities, as specified. The minutes and/or recording of a closed session may also be unsealed on the request of a person, or by the public body under its own initiative, if a majority of members present and voting vote in favor of unsealing the minutes and any recording.

After meeting in closed session, the minutes for a public body's next open session must include a summary that contains (1) the time, place and purpose of the closed session; (2) a record of the vote of each member as to closing the session; (3) a citation of authority under the Open Meeting Act for closing the session, as specified; and (4) a listing of the topics of discussion, persons present, and each action taken during the session.

A public body subject to the Open Meetings Act does not need to prepare written minutes of an open session if (1) live and archived video or audio streaming of the open session is available or (2) if individual public votes on legislation taken by members of the public body are posted promptly on the Internet.

Governor's Executive Council

The Governor's Executive Council, which is responsible for the coordination and effective direction and supervision of the State government, meets weekly and includes the:

- Governor;
- Lieutenant Governor;
- Secretary of State;
- secretary of each principal department of the Executive Branch of the State government;
- State Superintendent of Schools; and
- Secretary of Higher Education.

Governor's Cabinet

The State Government Article authorizes no more than 21 principal executive departments, each representing a broad, functional area of the Executive Branch. The existing 19 executive departments are listed below:

- Aging
- Agriculture
- Budget and Management
- Commerce
- Disabilities
- Environment
- General Services
- Health
- Housing and Community Development
- Human Services
- Information Technology
- Juvenile Services
- Labor, Licensing, and Regulation
- Natural Resources
- Planning
- Public Safety and Correctional Services
- State Police
- Transportation
- Veterans Affairs

State Expenditures: General fund expenditures for the Office of the Governor increase by \$7,500 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date, for contractual services to record, stream, and archive the open meetings of the Governor's Cabinet and the Governor's Executive Council. Future year expenditures reflect a full year of streaming. This estimate does not include additional costs in future years that could be incurred for technology upgrades.

Training materials related to the Open Meetings Law can be updated by the Office of the Attorney General to reflect the bill's changes using existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mm/mcr

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