

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 246

(Delegates Carr and Lehman)

Health and Government Operations

Education, Health, and Environmental Affairs

Open Meetings Act - Notices and Closed Sessions - Retention Periods and Online Posting

This bill increases, from one to three years, the length of time a public body must keep a copy of a specified meeting notice or written statement about the closing of a public meeting under Maryland's Open Meetings Act (OMA). To the extent practicable, a public body must post online any written statements about the closing of a public meeting.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law/Bill Summary:

Open Meetings Act, Generally

Under Maryland's OMA, with limited exceptions, a public body must (1) meet in open session in places reasonably accessible to potential attendees and (2) provide reasonable advance notice of the time and location of meetings, including, when appropriate, whether any portion of a meeting will be in closed 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; 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.

Notice

Before meeting in a closed or open session, a public body must give reasonable advance notice of the session. Whenever reasonable, such notice must be in writing; include the date, time, and place of the session; and, if appropriate, include a statement that a part or all of a meeting may be conducted in closed session. OMA specifies various methods by which a public body may give notice of a meeting. A public body must keep a copy of a meeting notice for at least one year after the date of the session; the bill increases this to three years.

Closed Sessions

A public body may not meet in closed session unless a majority of the members of the public body present and voting vote in favor of closing the session. Before a public body meets in closed session, the presiding officer must conduct a recorded vote on the closing of the session and make a written statement of the reason for closing of the meeting, including the citation of the authority to close the session and a listing of the topics to be discussed. The written statement must be a matter of public record, and the public body must keep a copy of the written statement for at least one year after the date of the session. The bill increases this to three years and requires, to the extent practicable, that the statement be posted online.

A public body may not meet in closed session unless at least one member of the body has been designated to receive training on the requirements of the open meetings law. If a designated individual cannot be present at an open meeting at which the public body votes to hold a closed session, the body must complete a specified compliance checklist developed by the Office of the Attorney General (OAG) and include the checklist in the meeting minutes.

Compliance

The State Open Meetings Law Compliance Board must receive, review, and resolve complaints from any person alleging a violation of OMA and issue a written opinion as to whether a violation has occurred. The opinions of the board are advisory only. The board may not require or compel any specific actions by a public body. By October 1 each year, the board must submit an annual report to the Governor and the General Assembly that includes specified information about the number, nature, and disposition of cases brought before it. In addition, the board must post the names of public bodies determined to have violated OMA and the opinions that describe the violations on the OMA page of the OAG's website.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Maryland State Department of Education; University System of Maryland; Maryland Department of the Environment; Baltimore City Community College; Department of Commerce; Baltimore City; Harford, Montgomery, Talbot, and Wicomico counties; Office of the Attorney General; Secretary of State; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Housing and Community Development; Department of Juvenile Services; Maryland Department of Labor; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Office of Administrative Hearings; Maryland Insurance Administration; Public Service Commission; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History:
rh/mcr

First Reader - January 23, 2022
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