

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 396

(Prince George's County Delegation and Montgomery  
County Delegation)

Environment and Transportation

Education, Health, and Environmental Affairs

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**Montgomery County Planning Board - Open Meetings - Video and Audio  
Streaming and Minutes  
PG/MC 101-22**

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This bill requires the Montgomery County Planning Board to, in addition to preparing minutes in accordance with the Open Meetings Act (OMA), (1) stream live video or audio of the open meetings of the board and (2) maintain on its website a complete and unedited archived recording of each livestreamed meeting. Further, the board must publish and maintain on its website the minutes of each open meeting. The inability of the board to comply with specified requirements of the bill due to technical failure does not affect the validity of any action taken by the board during the meeting under specified circumstances. If the board is unable to comply with the bill's livestreaming requirement, the board must make good-faith efforts to record an open meeting and maintain an archived recording of the meeting on its website, as specified.

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**Fiscal Summary**

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

**Local Effect:** None. The bill generally codifies the board's existing practice, as discussed below.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** The inability of the board to comply with the bill's requirements relating to live and archived meeting recordings, due to technical failure that entirely prevents or otherwise affects the quality of the live video or audio streaming of a meeting, does not affect the validity of any action taken by the board during the meeting if (1) the board otherwise complies with applicable requirements and (2) the inability to comply is not due to willful action by the board.

**Current Law:** The members of the Maryland-National Capital Park and Planning Commission (M-NCPPC) from Montgomery County are designated as the Montgomery County Planning Board. In general, the five-member board is responsible for planning, subdivision, and zoning functions that are primarily local in scope. The board is subject to OMA.

### *Open Meetings Act, Generally*

Under 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.

### *Minutes*

As soon as practicable after an 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 a public body meets 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. A public body need not 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 the public body votes on legislation and the individual votes taken by each participating member of the public body are promptly posted on the Internet. The bill requires the Montgomery County Planning Board to both prepare minutes and maintain live and archived video or audio of its meetings.

With limited exceptions, minutes of a public body must be available for public inspection during normal business hours. A public body must retain a copy of the minutes of each session and any specified recording for at least five years and, to the extent practicable, post them online.

**Local Fiscal Effect:** The board currently provides live video streaming of its open meetings and publishes the recordings and minutes of open meetings on its website. Thus, the bill generally codifies the board's existing practice and is not expected to affect Montgomery County or M-NCPPC finances.

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## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County; Department of Legislative Services

**Fiscal Note History:** First Reader - February 2, 2022  
fnu2/mcr Third Reader - March 10, 2022

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Analysis by: Elizabeth J. Allison

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510