

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 35

(Senator Kagan)

Education, Energy, and the Environment

Health and Government Operations

**Open Meetings Act - State Ethics Commission (Maryland State Agency
Transparency Act of 2023)**

This bill makes the State Ethics Commission (SEC) subject to enhanced requirements under the Open Meetings Act. The bill also requires that the Department of Information Technology (DoIT) provide the technical staff, support, and equipment necessary to livestream the open meetings of SEC. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by \$10,000 in FY 2024 only for SEC to reimburse DoIT for procuring video streaming equipment and related support services for SEC. Reimbursable revenues and expenditures increase commensurately for DoIT in FY 2024. The Open Meetings Law Compliance Board can handle any additional complaints that may arise as a result of the bill with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Open Meetings Act, Generally

Under Maryland's Open Meetings Act, 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.

Guidance provided by the Office of the Attorney General indicates that when the meeting “place” is a conference call, the public can be provided access through a call-in number or by access to a meeting room with a speakerphone.

Agendas

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 public body is not required to include in the agenda any information regarding the subject matter of a closed portion of the meeting. If a public body is unable to comply with specified deadlines for the release of a meeting agenda because the meeting is scheduled in response to an emergency, a natural disaster, or any other unanticipated situation, the public body must make available, on request, an agenda of the meeting within a reasonable time after the meeting occurs.

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.

In general, 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.

Enhanced Open Meetings Requirements

Certain economic and regional development organizations and other public bodies are subject to additional requirements under the Open Meetings Act; the bill adds SEC to the list of public bodies subject to these requirements. Generally, these requirements include making available on the body's website each open meeting agenda and other specified documents at least 48 hours in advance. The bodies must offer live video streaming of each portion of a meeting held in open session, as specified. In addition, the public body must also maintain on its website past meeting minutes for at least five years after the date of the meeting, and a complete and unedited archived video recording of the open meeting for at least one year after the date of the meeting.

State Expenditures: General fund expenditures increase by \$10,000 only in fiscal 2024 for SEC to reimburse DoIT for the purchase of equipment and related support services for SEC; reimbursable revenues and expenditures for DoIT increase accordingly. It is assumed that ongoing costs for SEC to reimburse DoIT for continued technical support are minimal and absorbable within existing budgeted resources.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 58 (Delegate Korman, *et al.*) - Health and Government Operations.

Information Source(s): Office of the Attorney General; State Ethics Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2023
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