

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 769 (Montgomery County Delegation)
Environment and Transportation

Judicial Proceedings

**Montgomery County – Housing Opportunities Commission – Public Body MC
07–21**

This bill clarifies that a committee of the Montgomery County Housing Opportunities Commission (HOC) is a public body for the purposes of the Open Meetings Act.

Fiscal Summary

State Effect: None. The bill pertains only to Montgomery County.

Local Effect: The bill does not materially affect Montgomery County operations or finances. As a public body, HOC is already subject to the Open Meetings Act.

Small Business Effect: None.

Analysis

Current Law:

Montgomery County Housing Opportunities Commission

State law establishes HOC as a public body corporate and politic that (1) exercises public and essential governmental functions and (2) has all the powers necessary or convenient to carry out the purposes of Division II of the Housing and Community Development Article, which governs local housing authorities. As a public body, HOC is subject to the Open Meetings Act.

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 (OAG) 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 information pertaining to 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.

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.

Compliance

The State Open Meetings Law Compliance Board must receive, review, and resolve complaints from any person alleging a violation of the Open Meetings Act 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 the Open Meetings Act and the opinions that describe the violations on the Open Meetings Act page of OAG's website.

Training

The board, in conjunction with OAG and other interested organizations or persons, must develop and conduct educational programs and distribute educational materials outlining the requirements of the Open Meetings Act to public bodies, the Maryland Municipal League, the Maryland Association of Counties, and the Maryland Association of Boards of Education. A public body must designate at least one employee, officer, or member to receive training on the requirements of the open meetings law.

Closed Sessions

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 OAG and include the checklist in the meeting minutes.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Housing and Community Development;
Department of Legislative Services

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