

# Legislative Analysis

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## OPEN MEETINGS ACT: POSTING REQUIREMENTS

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### House Bill 5459

**Sponsor: Rep. Paul Opsommer**

**Committee: Oversight, Reform, and Ethics**

**Complete to 3-19-12**

### A SUMMARY OF HOUSE BILL 5459 AS INTRODUCED 3-8-12

House Bill 5459 would amend the Open Meetings Act (MCL 15.265) to describe the procedure a public body would follow if its members were meeting in an emergency session without having given notice of the meeting to the public. A more detailed description of the bill follows.

Now under the Open Meetings Act, generally speaking, a public body must issue a public notice at least 18 hours before it meets. However, nothing in the act bars a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when two-thirds of the members serving decide that delay would be detrimental to efforts to lessen or respond to the threat. House Bill 5459 would retain all of these provisions but, in addition, the bill specifies that before a public body held an emergency meeting that failed to comply with the 18-hour notice requirement, it would be required to notify the Secretary of State of its intent.

The notice to the Secretary of State would be sent by electronic mail, facsimile, and the U.S. Postal Service, and include an explanation of the reasons that the public body would be unable to comply with the 18-hour notice requirement. Further, the members of the public body would be required to make available paper copies of the notice sent to the Secretary of State at the meeting to which that notice applied.

House Bill 5459 also specifies that notice to the Secretary of State would not create, nor could it be construed to create, a legal basis or defense for failure to comply with provisions of the Open Meetings Act, and it would not relieve a public body from the duty to comply with the act.

Finally, House Bill 5359 says that "a durational requirement for posting a public notice of a meeting [under the Open Meetings Act] is the time that the notice was required to be accessible to the public."

### FISCAL IMPACT:

A fiscal analysis is in process.

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