

OPEN MEETINGS ACT: EMERGENCY MEETINGS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5459 (Substitute H-1)
Sponsor: Rep. Paul Opsommer
Committee: Oversight, Reform, and Ethics

Complete to 4-18-12

A SUMMARY OF HOUSE BILL 5459 (H-1) AS REPORTED FROM COMMITTEE

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 Open Meetings 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 emergency provisions but, in addition, would require the public body to provide paper copies of the notice to the public at the meeting. The notice would have to include an explanation of why the public body cannot comply with the 18-hour requirement and must be specific to the circumstances that necessitated the emergency meeting. The use of generalized explanations such as "an imminent threat to the health of the public" or "a danger to public welfare and safety" would not meet the explanation requirements.

Public bodies that directly or indirectly maintain an official internet presence would have to post the public notice of the emergency meeting and its explanation on its website in the same manner as described above.

Within 48 hours after the emergency public meeting, the public body would have to send official correspondence to the Board of County Commissioners informing the commission that an emergency meeting with less than 18-hours notice had taken place. The notice to county commissioners must be sent by both electronic mail and the U.S. Postal Service, and include the public notice of the meeting with explanation.

The bill specifies that compliance with the notice requirements for emergency meetings 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, the bill says that "a durational requirement for posting a public notice of a meeting [under the Open Meetings Act] is the time that the notice is required to be accessible to the public."

Also would amend the existing general provision requiring 18-hour notice to specify that notice must be placed in a prominent and conspicuous place at both the public body's principal office and, if available, on the public body's website. The public notice on the website could be included on either the homepage or on a separate webpage dedicated for public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the website's homepage.

FISCAL IMPACT:

A fiscal analysis is in process.

POSITIONS:

Michigan Environmental Council supports the bill. (4-17-12)

Michigan Press Association supports the bill. (3-20-12)

Michigan Townships Association opposes the bill. (4-17-12)

Legislative Analyst: J. Hunault
Jeff Stoutenburg
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.