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BILL ANALYSIS



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House Bill 5459 (Substitute H-3 as passed by the House)
Sponsor: Representative Paul Opsommer
House Committee: Oversight, Reform, and Ethics
Senate Committee: Government Operations

Date Completed: 5-21-12

CONTENT

The bill would amend the Open Meetings Act to do the following:

- Specify posting requirements for the notice of a special meeting or a rescheduled regular meeting.**
- Establish notice requirements for an emergency public meeting.**

Special or Rescheduled Regular Meeting

Section 5 of the Act prohibits a public body from holding a meeting unless public notice is given as required. ("Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or making a decision on a public policy. A "public body" is any State or local legislative or governing body that is empowered by State Constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function.)

Notice of a public body's regular meetings must be posted within 10 days after the first meeting of the public body in each calendar or fiscal year. As a rule, for a special meeting or a rescheduled regular meeting, notice must be posted at least 18 hours before the meeting.

The bill would require the 18-hour notice to be posted in a prominent and conspicuous place at the public body's principal office. If the public body directly or indirectly maintained an official internet presence that included monthly or more frequent updates of public meeting agendas or minutes, the notice also would have to be posted on a portion of the website that was fully accessible to the public.

The public notice on the website would have to be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled public meetings and accessible via a prominent and conspicuous link on the homepage that clearly described its purpose for public notification of those meetings.

Emergency Meeting

The Act states that nothing in Section 5 bars a public body from meeting in emergency session in the event of a severe and imminent threat to the public health, safety, or welfare when two-thirds of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

Under the bill, if a public body held an emergency public meeting that did not comply with the 18-hour posted notice requirement, it would have to make paper copies of the public notice for the emergency meeting available to the public at that meeting. The notice would have to explain why the public body could not comply with the 18-hour notice requirement. This explanation would have to be specific to the circumstances that necessitated the emergency meeting, and 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 requirement.

If the public body directly or indirectly maintained an official internet presence that included monthly or more frequent updates of public meeting agendas or minutes, it would have to post the public notice of the emergency meeting and its explanation on the website in the manner described for an internet posting of a special meeting or a rescheduled regular meeting.

Within 48 hours after the emergency public meeting, the public body would have to send official correspondence to the board of county commissioners of the county where the public body was principally located, informing the board that an emergency meeting with less than 18 hours' public notice had taken place. The correspondence would have to include the public notice of the meeting with explanation, and be sent by either U.S. postal service or e-mail.

Compliance with the notice requirements for emergency meetings would not create, and could not be construed to create, a legal basis or defense for failure to comply with other provisions of the Act, and would not relieve the public body from the duty to comply with any provisions of the Act.

Durational Requirement

The bill states that a durational requirement for posting a public notice of a meeting under the Act would be the time that the notice was required to be accessible to the public.

MCL 15.265

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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