

REMEDIES FOR VIOLATIONS OF OPEN MEETINGS ACT

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House Bill 4766 as introduced
Sponsor: Rep. Martin Howrylak
Committee: Law and Justice
Complete to 10-30-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4766 would amend the Open Meetings Act to allow for additional remedies for noncompliance with Act and to add a time frame for certain civil actions under the Act.

Generally under the Act, meetings of a public body are required to be open to the public and held in a place available to the general public. Notices are generally required to be posted to the public, and public attendees hold certain rights during the meetings.

If a public body is not complying with the Act, Section 11 (MCL 15.271) authorizes the attorney general, the prosecuting attorney, or another person to file an action in circuit court seeking an injunction against the public body's further noncompliance with the Act. A party can also seek a writ of mandamus from the Court of Appeals to compel the public body's compliance with the Act. Court costs and attorney fees are awarded to a party who "succeeds in obtaining relief in the action."

House Bill 4766 would add "a declaratory judgment that the public body violated or is violating this act" to the mandamus or injunctive relief that a person may seek from a court under Section 11, and would mandate that a person awarded such a declaratory judgment also be awarded court costs and attorney fees for the action.

House Bill 4766 adds a one-year window during which civil actions may be brought under Section 11, beginning on the date of the violation that gave rise to the cause of action. The bill also changes the venue for an action against a state public body from the Circuit Court for Ingham County to the Court of Claims. The bill would take effect 90 days after its enactment.

FISCAL IMPACT:

The bill could have a possible fiscal impact on the Office of the Attorney General (AG), to the extent that broadening the language under which civil actions can be commenced creates a caseload for the AG that cannot be accommodated with current staffing. The cost of an additional FTE for an attorney is \$180,000 per year.

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