

REMEDIES FOR VIOLATIONS OF OPEN MEETINGS ACT

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House Bill 4179 as introduced
Sponsor: Rep. Aaron Miller
Committee: Judiciary
Complete to 9-3-19

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

SUMMARY:

House Bill 4179 would amend the Open Meetings Act (OMA) to allow for additional remedies for noncompliance with the act and to add a time frame for certain civil actions under the act.

Generally under the OMA, 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 OMA, section 11 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.

The bill 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 currently seek from a court under the section. This provision would not apply to a violation that occurred before the bill's effective date.

Moreover, court costs and attorney fees are currently awarded under the act to a party who "succeeds in obtaining relief in the action." The bill would limit applicability of this provision to noncompliance by a public body and actions occurring before the bill's effective date. On and after the bill's effective date, if a public body had not complied or was not in compliance with the act, and a person who commenced a civil action against the public body for a declaratory judgment, for injunctive relief, or to seek a writ of mandamus obtained any judicial finding that the public body had not complied or was not complying with the act, the court would be required to award the person court costs and actual attorney fees.

The bill would also add a one-year window during which civil actions could be brought under section 11, beginning on the date of the violation that gave rise to the cause of action.

Finally, the bill would change 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.

MCL 15.271

BACKGROUND INFORMATION:

House Bill 4179 is similar to House Bill 4766 of the 2017-18 legislative session.

FISCAL IMPACT:

House Bill 4179 could result in potential marginal costs to state departments and agencies and local units of government as a result of being required to pay for court costs and attorney fees to plaintiffs who are given a favorable judgment in court action against them. The Department of Attorney General may incur marginal administrative costs if the broadening of the language under which civil actions can be commenced substantially increases the department's caseload. While unlikely, should an increase to the caseload require an additional attorney, the cost of an attorney FTE is \$180,000 annually.

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