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Senate Bill 1023 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Veronica Klinefelt
Committee: Local Government

Date Completed: 12-17-24

CONTENT

The bill would amend the Open Meetings Act to expand the reasons that a public body could hold a closed session to include specific attorney consultation and the consideration of a claim, lawsuit, or criminal investigation concerning the body.

Generally, the Act requires certain meetings of public bodies to be open to the public; however, a public body may meet in a closed session for certain purposes. One allowed purpose is to consult with an attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body. Instead, under the bill, a public body could meet in a closed session to consult with its attorney regarding the following:

- Pending or notice of potential litigation in which the public body or a member of the public body was a party or a potential party.
- The attorney's oral or written legal opinion, regardless of the attorney's presence.

In addition, a public body could meet in a closed session for the following purposes:

- To consider a demand or offer made to or by the public body to settle a claim against the public body or a member of the public body.
- To consider a lawsuit the public body was contemplating filing.
- To consult regarding a criminal investigation against a public body member or employee.

MCL 15.268

BRIEF RATIONALE

The Act generally requires all meetings of public bodies to be open to the public. The Act permits public bodies to meet in closed session for specified reasons, such as meeting with a body's attorney concerning litigation involving the public body; however, some people believe that this allowance is too narrow and prevents public bodies from meeting in closed session to discuss potential litigation or demands made of the body without the presence of an attorney. Expanding the reasons that a public body could meet in closed session would allow a public body to have more productive conversations about current or potential judicial matters involving the body.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

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

Fiscal Analysts: Bobby Canell; Joe Carrasco, Jr.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.