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## OPEN MEETINGS: EXEC. ORDERS

House Bill 5088 as introduced  
First Analysis (11-30-93)

Sponsor: Rep. H. Lynn Jondahl  
Committee: House Oversight & Ethics

### ***THE APPARENT PROBLEM:***

Generally, the Open Meetings Act requires that the meetings of a public body be open to the public and held in places available to the general public, that its deliberations when a quorum is present take place at a meeting open to the public, that its decisions be made at meetings open to the public, that notice of meetings be provided, and that minutes of meetings be kept and be open to public inspection. The act's definition of "public body," however, does not include bodies created by executive order. According to an administration spokesperson, Governor Engler has created 23 bodies by executive order since taking office in 1991. Of particular concern to some is the Michigan Science Review Board, which was created as the successor agency to a number of boards and commissions formerly housed within the Department of Natural Resources. Legislation has been proposed to ensure that the science review board and similar groups are subject to the Open Meetings Act.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Open Meetings Act to include in the definition of "public body" a body empowered by executive order. Currently, the definition in the act refers to "any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, which is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function, or a lessee thereof performing an essential public purpose and function pursuant to the lease agreement."

MCL 15.262

### ***FISCAL IMPLICATIONS:***

There is no fiscal information at present. (11-29-93)

### ***ARGUMENTS:***

#### ***For:***

Boards created by executive order do important work, often making or contributing to major public policy decisions. This is especially the case with the Michigan Science Review Board, created by executive order and charged with recommending standards and procedures for permits and operating licenses issued by the Department of Natural Resources. The issuance of environment-related permits and licenses can have profound effects on members of the public, but there are no statutory guarantees that the public would be admitted to science review board meetings. Indeed, the board reportedly has already issued recommendations on mercury pollution without the benefit of public input. Major policy decisions should not be shielded from public scrutiny and participation; this is the main point of the Open Meetings Act. The bill rightly would extend the act to apply to boards created by executive order.

#### ***Against:***

Of the 23 boards and commissions created by executive order since 1991, only eight are decision-making bodies. The remainder, including the science review board, are advisory bodies, created for the purpose of advising the governor and developing recommendations. To subject these boards to the Open Meetings Act would be to interfere with frank and open discussions between gubernatorial advisors and between advisors and the governor. Such boards are outside the proper scope of the Open Meetings Act.

#### ***Response:***

There is nothing in the bill that would prevent the governor from having private and frank discussions with advisors, or that would prevent advisors from meeting privately with each other, as long as that group of advisors did not constitute a quorum of a board or commission.

***POSITIONS:***

Clean Water Action supports the bill. (11-22-93)

Common Cause of Michigan supports the bill. (11-18-93)

The League of Women Voters--Michigan supports the bill. (11-22-93)

The Michigan Press Association supports the bill. (10-18-93)

The Michigan United Conservation Clubs supports the bill. (11-8-93)

The Executive Office opposes the bill. (11-18-93)