



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 288 (as passed by the Senate)  
Sponsor: Senator Veronica Klinefelt  
Committee: Local Government

Date Completed: 7-30-25

## **RATIONALE**

The Open Meetings 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.

## **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

## **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

The bill is a reintroduction of Senate Bill 1023 from the 2023-2024 Legislative Session. Senate Bill 1023 passed the Senate and was referred to the House Committee on Government Operations but received no further action.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Opposing Argument**

Public bodies should strive to keep meetings open to the public, and the bill's proposed language is too broad to hold public bodies accountable in this regard. Without more specificity, expanding the reasons a public body could meet in closed session to include an attorney giving an oral or written opinion could be construed broadly to concern any opinion of the attorney. Some people have concern that this broad interpretation could result in corruption if a public body used it often to go into closed session. Keeping meetings open to the public as often as possible establishes accountability against corruption, and so the bill should not be passed.

**Response:** Closed session also can ensure accountability. Without the bill's broad language, a member of a public body could have to share information relevant to an investigation in open session, which could cause parties to a legal matter to behave differently. A public body should be able to enter closed session to ensure that the consideration of any legal matter was not obstructed by a member of a public body sharing sensitive information with other parties to the legal matter.

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.