Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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General Assembly Open Meetings Law

The Ohio Constitution requires General Assembly proceedings to be conducted publicly. Although the state has an Open Meetings Act that generally requires public officials to conduct official action and deliberations on official business only in open meetings, it does not apply to the General Assembly. Instead, public access to General Assembly proceedings is governed by specific laws applicable only to the General Assembly.

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Proceedings of General Assembly open to public

Ohio Constitution, Article II, Section 13 requires that "[t]he proceedings of both houses [of the General Assembly] shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy." And, Ohio Constitution, Article II, Section 7 requires both the House of Representatives and the Senate to "determine its own rules of proceeding." In accordance with these provisions, the General Assembly enacted the General Assembly Open Meetings Law, which applies to the General Assembly only. Ohio's Open Meetings Act (R.C. 121.22) does not apply to the General Assembly. For more information about the general Open Meetings Law, see LSC's *Members Brief* on Ohio's Open Meetings Law (PDF).

General Assembly Open Meetings Law

The General Assembly Open Meetings Law (R.C. 101.15) declares that all committee meetings are "public meetings open to the public at all times," specifies notice requirements for meetings, and invalidates certain committee actions if not taken during open meetings. The Law applies to any committee of either house of the General Assembly, a joint committee of both houses (including a conference committee) and a subcommittee of any of those committees. The Law does not apply, however, to meetings of a caucus or to certain meetings of the Joint Legislative Ethics Committee. Finally, a "meeting" is any prearranged discussion of the public business of a committee by a majority of its members.[1]

Notice of committee meetings

Each committee must provide at least 24-hours' advance notice of regular and special meetings.

Each committee must establish a reasonable method that allows a person to determine (1) the time and place of all regularly scheduled meetings and (2) the time, place, and purpose of all special meetings. The method must provide that, on request and payment of a reasonable fee, any person may obtain reasonable advance notice of all meetings at which any specific type of public business will be discussed. The law specifies that a committee may provide the required advance notice by mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed stamped envelopes provided by the person who requested advance notice, but a committee may utilize other unspecified means of providing the required advance notice. For instance, committees typically provide meeting notices via email or place meeting notices on the General Assembly's website. A committee may not hold a regular or special meeting unless it provides at least 24-hours' advance notice of the meeting to the news media that requested to be notified of committee meetings.

Actions taken during committee meetings

Formal actions of a committee not taken in an open meeting are invalid.

The General Assembly Open Meetings Law invalidates certain committee actions unless they are taken during open meetings. Any formal action of a committee, including any action relating to a bill or resolution, must be taken in an open meeting of the committee, otherwise the action is invalid. Additionally, any formal action of a committee is invalid if it is taken in an open meeting but results from deliberations conducted in a meeting that was not open to the public. Thus, for example, the Law cannot be avoided by a majority of a committee's members conducting prearranged private deliberations on a bill before a formal public vote on the bill. Both the deliberations and the formal committee action must be conducted publicly for the action to be valid.

[1] "Caucus" means all of the members of either house of the General Assembly who are members of the same political party.

Minutes of committee meetings

The General Assembly Open Meetings Law also requires the minutes of a committee meeting to be open for public inspection. The secretary assigned to the chairperson must prepare, file, and maintain the minutes of every meeting of the committee. At its next meeting, the committee must approve the minutes or, if necessary, the committee must make corrections to the minutes and then approve the corrected minutes at the next meeting. The minutes must be made available for public inspection not later than seven days after the meeting or not later than the committee's next meeting, whichever occurs first.

Enforcement

Any person may bring an injunction action in a court of common pleas to enforce the General Assembly Open Meetings Law not later than two years after the occurrence of an alleged violation (e.g., a meeting was not open to the public) or threatened violation (e.g., a committee chairperson indicates that a particular matter will be deliberated or voted on privately). If there is proof of a violation (or of a "threatened" violation), the court must issue an injunction to require the members of the committee to comply with the Law's requirements.

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If a court issues an injunction, the enjoined committee must pay a civil forfeiture of $500 to the party who sought the injunction and typically pays that party's court costs and attorney's fees. If a committee member knowingly violates the injunction, the Franklin County Prosecutor or the Attorney General may bring an action to remove the member from office.

These injunction and removal actions are the exclusive remedies for violations of the General Assembly Open Meetings Law.

If a court of common pleas determines an action was frivolous, the court must award to the committee its court costs and the reasonable attorney's fees it incurred in defending the action.[2]

[2] R.C. 101.15.

Nonjusticiability

Under the doctrine of separation of powers, the General Assembly's failure to comply with its self-imposed obligations is a nonjusticiable issue because the Constitution grants the General Assembly, rather than the executive or judicial branches, the authority to adopt and observe such obligations.[3] In other words, a court may find the General Assembly's failure to comply with certain elements of the General Assembly Open Meetings Law is unenforceable, despite the Law's enforcement provisions.[4] However, the General Assembly must comply with the requirement that its proceedings remain public because the requirement is mandated by the Ohio Constitution rather than self-imposed by the General Assembly.

Under the doctrine of separation of powers, the General Assembly's failure to comply with its self-imposed obligations is a nonjusticiable issue.

Given this nonjusticiability, the provisions of the General Assembly Open Meetings Law have not been frequently litigated. However, because of similarities between the Law and the Ohio Meetings Act, a court might cite cases determined under the Open Meetings Act in resolving disputes arising under the General Assembly Open Meetings Law.[5]

[3] *State ex. rel. Grendell, v. Davidson*, 86 Ohio St.3d 629 (1999) (General Assembly failed to adhere to a joint rule limiting the scope of matters to be considered by a conference committee; Ohio Supreme Court held that requiring compliance would be a violation of the doctrine of separation of powers); *City Loan and Savings Co. of Wapakoneta v. Moore*, 124 Ohio St. 256, 259 (1931) (General Assembly failed to adhere to a joint rule regarding the bringing of a motion to reconsider; Ohio Supreme Court concluded the General Assembly's "failure . . . is not the subject matter of judicial inquiry").

[4] *Vercellotti v. Husted*, 174 Ohio App. 3d 609 (10th Dist., 2008) (the trial court held that the use of committees by the General Assembly is an internal rule, rather than a constitutional requirement, and therefore, the R.C. 101.15 requirement that committees act only in open meetings is an internal rule, and the failure to follow that internal rule cannot result in invalidation of the committee's action).

[5] For example, in *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540 (1996), the Ohio Supreme Court determined that the requirement that meetings attended by a majority of the members of a public body be open to the public could not be circumvented by scheduling back-to-back closed meetings each attended by less than a majority of members of the public body, where the same topics of public business were discussed, and where, taken together, the meetings were attended by a majority of that public body. A court interpreting the General Assembly Open Meetings Law could refer to that case.