

Testimony on House Bills 5193 and 5194
by Jane Briggs-Bunting, Michigan Coalition for Open Government
before the House Oversight Committee
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The Michigan Coalition for Open Government, a tax exempt, Michigan nonprofit corporation, supports the proposed changes to the state Open Meetings Law. The two bills would result in modest though needed modifications allowing the public access that has, at times knowingly or unwittingly, been circumvented by public bodies.

HB 5193 clarifies that public bodies are not allowed to close meetings in anticipation of litigation or for the threat of a lawsuit. This occurs more frequently than most know.

It is also difficult for members of the public in attendance at the meetings to know why a closed meeting is occurring despite the requirement in Sec 7 (1) that: ...The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

I think it would be serving the public good if Section 7 could also be amended to require the specific reason or cause of the closure instead of a mere citation of the Section 8 exemption which is often what occurs.

HB 5194 resolves another problem in the OMA since public bodies who may have violated the law by closing a part of a meeting illegally routinely then re-vote to correct their mistake. Under the law, such a re-vote is not construed as an admission that the OMA was violated. However, adding the provision that such re-enactments cannot be used as a defense in a criminal action could discourage willful disregard of the OMA. Though criminal prosecutions for OMA violations are very rare in Michigan, it does give the law some bite to discourage willful acts.