



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

BILL ANALYSIS



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

Senate Bill 316 (as introduced 5-7-15)
Sponsor: Senator Rick Jones
Committee: Elections and Government Reform

Date Completed: 9-8-16

CONTENT

The bill would amend the Open Meetings Act to provide exemptions from the Act for the Employment Relations Commission and the Michigan Compensation Appellate Commission.

The Act requires all meetings of a public body to be open to the public. Subject to certain exceptions, all deliberations of a public body constituting a quorum of its members must take place at a meeting open to the public. In addition, all decisions of a public body must be made at a meeting open to the public.

The Act does not apply to various public bodies or individuals when they are deliberating the merits of a case. These include an arbitrator or arbitration panel appointed by the Employment Relations Commission. The bill also would exempt the Commission itself.

The current exemptions also include the Worker's Compensation Appeal Board created under the Worker's Disability Compensation Act and the Michigan Employment Security Board of Review created under the Michigan Employment Security Act.

The bill, instead, would exempt the Michigan Compensation Appellate Commission operating as described in either Section 274 of the Worker's Disability Compensation Act or Section 34 of the Michigan Employment Security Act.

(Section 274 of the Worker's Disability Compensation Act authorizes the Commission to handle, process, and decide appeals from orders of the Director of the Worker's Compensation Agency (formerly the Bureau of Worker's Compensation) and workers' compensation magistrates. Section 34 of the Michigan Employment Security Act authorizes the Commission to hear appeals of decisions of administrative law judges within the Unemployment Insurance Agency.)

The bill would take effect 90 days after its enactment.

MCL 15.263

BACKGROUND

Employment Relations Commission

The Employment Relations Commission is created under Public Act 176 of 1939. The Commission is housed within the Department of Licensing and Regulatory Affairs, and consists of three commissioners appointed by the Governor with the advice and consent of the Senate.

According to the State of Michigan website, "The Michigan Employment Relations Commission (MERC) resolves labor disputes involving public and private sector employees by appointing mediators, arbitrators and fact finders, conducting union representation elections, determining appropriate bargaining units, and adjudicating unfair labor practices." The Commission administers three statutes: Public Act 176 of 1939, which regulates collective bargaining relationships between private sector unions and small private sector employers not falling within the jurisdiction of the National Labor Relations Act; Public Act 336 of 1947, which grants public employees within the State, excluding State and Federal classified civil service employees, the right to organize and be represented by labor organizations of their choice; and Public Act 312 of 1969, which provides for compulsory binding arbitration of labor-management disputes involving public safety employees.

Michigan Compensation Appellate Commission

An entity known as the Worker's Compensation Appellate Commission was created by a 1985 amendment to the Worker's Disability Compensation Act, which also eliminated the Worker's Compensation Appeal Board. Subsequently, a series of Executive Orders abolished and recreated the Commission. These include Executive Order (E.O.) 2011-4, which created the Michigan Administrative Hearing System (MAHS) within the Department of Licensing and Regulatory Affairs, and transferred the Commission and the Michigan Employment Security Board of Review to the MAHS from the State Office of Administrative Hearings and Rules, which the E.O. abolished.

The Commission created by E.O. 2011-4 then was transferred to a new Michigan Compensation Appellate Commission created by Executive Order 2011-6. That E.O. also abolished the Employment Security Board of Review and transferred its functions and authority to the new Commission. Public Act 266 of 2011 then amended the Worker's Disability Compensation Act to refer to the Michigan Compensation Appellate Commission created by E.O. 2011-6 and housed within the Michigan Administrative Hearing System.

More recently, Executive Order 2014-6 amended E.O. 2011-6 with respect to the number of commissioners and the filling of vacancies on the Commission. According to E.O. 2011-6, the Commission must consist of up to nine members appointed by the Governor with the advice and consent of the Senate.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton

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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.