

## **SUBJECT**

Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements

Lead Sponsor: Councilmember Luedtke

Co-Sponsors: Councilmember Katz and Council President Glass

## **EXPECTED ATTENDEES**

Ken Hartman Espada, Director of Strategic Partnerships, Office of the County Executive

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

The Government Operations and Fiscal Policy Committee unanimously recommends enactment of Bill 8-23 with amendments.

## **DESCRIPTION/ISSUE**

Bill 8-23, as originally introduced, would:

- (1) require boards, committees, and commissions to publish, within certain timeframes, the dates, times and locations of meetings, meeting agendas, and meeting minutes;
- (2) require boards, committees, and commissions to make meeting recordings available under certain circumstances;
- (3) require the posting of draft meeting minutes under certain circumstances;
- (4) require certain reporting by the Office of the County Executive to the Council; and
- (5) generally amend the laws regarding boards, committees, and commissions and regarding open meetings.

## **SUMMARY OF KEY DISCUSSION POINTS**

- The GO Committee recommends the enactment of Bill 8-23 with amendments to:
  - Remove the bill's requirement to post draft minutes;
  - Provide for the posting of agendas as soon as practicable if a meeting is held in response to a declared amendment;
  - Provide the Executive with flexibility to designate which office within the Executive Branch would receive complaints and submit reports under the bill; and
  - Make technical corrections.

## **This report contains:**

Staff Report  
Bill 8-23  
County Executive Memorandum

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**MEMORANDUM**

March 20, 2023

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Bill 8-23, Committees, and Commissions – Open Meetings – Supplemental Requirements

PURPOSE: **Action** – final vote expected

<b>COMMITTEE RECOMMENDATION:</b> The Government Operations and Fiscal Policy Committee unanimously recommends enactment of Bill 8-23 with amendments.
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**Expected Attendee**

Ken Hartman Espada, Director of Strategic Partnerships, Office of the County Executive

Bill 8-23, Committees, and Commissions – Open Meetings – Supplemental Requirements, sponsored by Lead Sponsor Councilmember Luedtke and Co-Sponsors Councilmember Katz and Council President Glass, was introduced on February 14, 2023. A public hearing was held on February 28, and a Government Operations and Fiscal Policy (GO) Committee worksession was held on March 2, 2023. The GO Committee recommended enactment of the bill with several amendments.

Bill 8-23, as originally introduced, would:

- (1) require boards, committees, and commissions to publish, within certain timeframes, the dates, times and locations of meetings, meeting agendas, and meeting minutes;
- (2) require boards, committees, and commissions to make meeting recordings available under certain circumstances;
- (3) require the posting of draft minutes in certain circumstances;
- (4) require certain reporting by the Office of the County Executive to the Council; and
- (5) generally amend the laws regarding boards, committees, and commissions and regarding open meetings.

## **BACKGROUND**

Under state law, “public bodies” – which include all boards, committees, and commissions of the County, must adhere to open meeting requirements. The County has over 80 boards, committees, and commissions (BCCs). Those BCCs are subject to Article XI, Chapter 2 of the County Code, in addition to being subject to the state Open Meetings Act.

Bill 8-23 would amend Article XI, Chapter 2 of the Code to further govern the operation of BCCs in the County. These amendments would be intended to enhance existing open meetings and procedural requirements.

## **BILL SPECIFICS**

The bill, as originally introduced, would generally require a BCC – in addition to following the transparency requirements of the state Open Meetings Act and the procedural requirements of Article XI, Chapter 2 of the County Code – to take the following steps regarding meeting notices, agendas, and minutes:

- publish notice of meetings within 5 business days after the group has determined the meeting date, and at least 2 calendar days before the meeting;
- publish meeting agendas within 5 business days after the group has determined the agenda; and at least 2 calendar days before the meeting; and
- within 5 days after it meets, publish either a recording of the meeting (if the meeting was recorded), or draft meeting minutes (if the meeting was not recorded). The draft minutes, if applicable, would be replaced by the approved minutes within 5 days after approval of the minutes.

The bill also would enable members of the public and BCC members to submit complaints to the Office of Community Partnerships in the event that a BCC violates the supplemental requirements under the bill. The Office of Community Partnerships would endeavor to resolve the complaint, and the Office quarterly would submit a report to the Council regarding the complaints and their resolutions.

## **SUMMARY OF PUBLIC HEARING**

The County Executive submitted testimony in support of Bill 8-23 with amendments. The League of Women Voters also submitted testimony in support of the bill.

## **SUMMARY OF IMPACT STATEMENTS**

The Office of Legislative Oversight (OLO) expects that Bill 8-23 would have a minimal impact upon **racial equity and social justice** in the County. OLO has not recommended amendments to Bill 8-23. However, OLO noted that “if the Council seeks to improve the RESJ impact of the Bill, OLO offers three items for consideration:

- Amend RESJ Act to require RESJ training and action plans for each BCC. As discussed in ‘BCCs and Racial Equity,’ integrating a RESJ focus in all BCCs could help reinforce RESJ efforts in the County.

- Amend Office of Racial Equity and Social Justice (ORESJ) Executive Regulations to require BCCs to develop RESJ action plans (in 2026 or later). Should a requirement be enacted for BCCs to develop RESJ action plans, prescribing a due date in ORESJ’s Executive Regulations would support BCCs in prioritizing this activity.

- Request a diversity audit for BCCs. To understand whether representation on BCCs is representative of the County’s demographics, the Council could request a diversity audit to collect data on the demographics of each BCC (e.g., race, ethnicity, gender identity, age) to compare to overall County demographics. A detailed understanding of BCC demographics would give a baseline understanding of potential disproportionalities in BCC representation, which could be used to identify opportunities for enhancing RESJ. In 2019, the City of Sacramento published a comprehensive diversity audit of its BCCs.”

According to the **Fiscal Impact** Statement, Bill 8-23 is not expected to affect County revenues or expenditures. OLO expects that the bill would have little to no impact upon **climate change**. The **Economic Impact** Statement states that the bill would have an insignificant impact upon economic conditions in the County.

## SUMMARY OF THE COMMITTEE RECOMMENDATIONS

At its worksession on March 2, OLO considered the following issues and recommended the following amendments in connection with Bill 8-23.

### 1. Legal Framework and Other Jurisdictions

Under the Open Meetings Act (OMA), each state and local public body in Maryland must adhere to certain transparency requirements, including generally: (1) holding meetings in public; (2) providing reasonable notice and publishing agendas in advance of meetings; and (3) providing written minutes of meetings. Md. Code Ann., General Provisions § 3-101 *et seq.*

For general information about the OMA requirements, see *Open Meetings FAQs – A Quick Guide to Maryland’s Open Meetings Act*, Office of the Attorney General, [https://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA\\_FAQ.pdf](https://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA_FAQ.pdf)

With regard to certain public bodies in the state, transparency requirements in addition to the OMA apply. For example, in Baltimore City, local law requires public bodies to publish their meeting notices, and to submit their written minutes, within certain timeframes to the City’s Department of Legislative Reference. See Baltimore City Code §§ 6-4 and 6-5, [https://legislative.reference.baltimorecity.gov/sites/default/files/Art%2001%20-%20MayorCouncil%20\(rev%202022.08.20\).pdf](https://legislative.reference.baltimorecity.gov/sites/default/files/Art%2001%20-%20MayorCouncil%20(rev%202022.08.20).pdf).

In particular, Baltimore City law requires City public bodies to provide its meeting notices to the Department of Legislative Services at least 7 days in advance. Notice of emergency meetings must be provided “as soon as possible”. Minutes must be submitted to the Department of Legislative Services within 7 days after a meeting has taken place.

The General Assembly also has required certain public bodies to follow requirements in addition to the OMA requirements. For example, under the Maryland State Agency Transparency Act of 2022 (Chapter 346 of the 2022 Laws of Maryland), various agencies – including the State Board of Elections and the Maryland Stadium Authority – must publish agendas at least 48 hours in advance of a meeting or, in an emergency, “as far as advance of the meeting as practicable”. Minutes of meetings must be published not more than two business days after the minutes are approved. <https://mgaleg.maryland.gov/mgaweb/legislation/details/sb0269/?ys=2022rs>

## **2. Open Meetings Compliance Board Decision re: County BCCs**

The Open Meetings Compliance Board (OMCB) is a body appointed by the Governor to issue advisory opinions in response to written complaints about violations of the Open Meetings Act.

In August 2022, OMCB found issued an opinion finding OMA violations by several County BCCs. In particular, OMCB “conclude[d] that several bodies violated the Act, by failing to provide reasonable advance notice of meetings, by failing to provide the public information on how to access virtual meetings, by failing to retain meeting notices, by failing to make agendas available to the public or by failing to do so in a timely manner, and by failing to prepare minutes or post them online when it was practicable to do so.”

Specific OMCB findings included:

- *Notices.*
  - “The County acknowledges that several bodies—including the Criminal Justice Coordinating Commission, the Silver Spring Transportation Management District Advisory Committee, and the Friendship Heights Transportation Management District Advisory Committee—violated the Act by failing to provide the public information on how to access virtual meetings. Thus, we find that these bodies violated § 3-303 of the Act.”
- *Agendas.*
  - “We do, however, find that the Firearm Safety Committee violated § 3-302.1(a), based on the County’s concession that this body failed to prepare any agendas for its meetings. The Alcoholic Beverages Advisory Board and the Commission on Common Ownership Communities violated the same provision when technical glitches made certain agendas unavailable to the public.”
  - “The County concedes that the Commission on Child Care often did not finalize its agenda until the same day as a meeting and, thus, failed to meet the 24-hour deadline set forth in § 3-302.1(a). The same is true of the Citizens Review Panel for Children, which sometimes did not upload

agendas to the Google drive until the morning of a meeting, and the Local Management Board for Children, Youth, and Families, which made agendas available only during meetings. The County also concedes that the Climate, Energy, and Air Quality Advisory Committee failed to timely make its agenda available in January 2022. We thus find violations of the timing requirement of § 3-302.1(a) with respect to these bodies.”

- *Minutes.*
  - The County concedes that the Committee to Recommend Funding for the Public Election Fund did not post minutes for meetings in January 2020, December 2020, and September 2021, despite posting other minutes online. We understand this to be a concession that it was practicable for the Committee to have posted the missing minutes online and, based on that understanding, we find a violation of § 3-306(e)(2). Several other bodies—the Firearm Safety Committee, the Western Montgomery County Citizens Advisory Board, the White Flint Downtown Advisory Committee, and the Silver Spring Urban District Advisory Committee—failed to prepare any minutes in the first place, a violation of § 3-306(b), which provides that, “as soon as practicable after a public body meets, it shall have minutes of its session prepared.”

The full opinion is available at:

<https://www.marylandattorneygeneral.gov/Opinions%20OMCB%20Documents/Vol16/16OMCB163.pdf>.

### **3. Committee Amendment – Which office or department should receive complaints?**

Under the bill as originally drafted, the Office of Community Partnerships would receive complaints regarding compliance with the bill’s requirements.

To provide the Executive with greater flexibility to identify the office or department that would receive complaints, the Committee adopted the following amendment.

*Amend lines 50-58 as follows.*

- (2) A group member, or member of the public, may complain to [[the Office of Community Partnerships]] an office or department designated by the County Executive if a group does not comply with the requirements of this section.
- (3) The [[Office of Community Partnerships]] designated office or department:
  - (A) may consult with the group, and staff assigned to the group, to address compliance issues; and

- (B) must report in writing to the Council, on a quarterly basis, regarding complaints received under this section and the resolutions of those complaints.

#### **4. Committee Amendment – Declared emergencies**

Under the bill, an agenda for an emergency meeting must be published at least 24 hours in advance of the meeting. The Committee amended the bill to add that in the event of a *declared emergency*, the agenda must be published *as soon as practicable*. This would account for the rare circumstance in which a BCC might need to meet with less than 24 hours advance notice.

The Committee's amendment is as follows.

*After line 33, insert the following.*

- (3) If the requirements of paragraph (2) cannot be met due to an emergency declared by the Governor of Maryland or the County Executive, a group must:
  - (A) publish the agenda as soon as practicable in advance of the meeting;  
and
  - (B) indicate on the agenda that the meeting is an emergency meeting.

#### **5. Committee Amendments – Clarifying / technical amendments**

The Committee adopted the following clarifying amendments.

*Amend lines 34-35 as follows.*

- (d) Meeting minutes and recordings.
  - (1) Within 5 business days after it meets, a group must publish:

*Amend lines 53-55 as follows.*

- (3) The Office of Community Partnerships:
  - (A) may consult with the group, and staff assigned to the group, to address compliance issues under this Section; and

*After line 58, add the following.*



- (4) Nothing in this Section prevents an individual from submitting a complaint to the state Open Meetings Compliance Board under the state Open Meetings Act, Title 3 of the General Provisions Article of the Maryland Code, as amended.

**6. Committee Amendment – Deletion of Draft Minutes Requirement**

The Committee determined (3-0) to delete the bill's requirement to post minutes by adopting the following amendment.

*Amend lines 34-45 as follows.*

(d) Meeting minutes and recordings.

- (1) Within 5 days after it meets, a group must publish[[:

(A)] if the group recorded the full meeting, a file of the recording, or a link to the recording[[: or

(B) if the group did not record the full meeting, draft meeting minutes]].

- (2) Within 5 business days after approving meeting minutes, a group must[[:

(A)] publish the approved minutes under Section 3-306 of the Open Meetings Act[[: and

(B) if draft minutes of the meeting were published under paragraph (1), remove the draft minutes]].

**Next Step:** Roll call vote on whether to enact Bill 8-23 with amendments, as recommended by the GO Committee.

**This packet contains:**

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Bill No. 8-23  
Concerning: Boards, Committees, and  
Commissions – Open Meetings –  
Supplemental Requirements  
Revised: 03/20/23 Draft No. 5  
Introduced: February 14, 2023  
Expires: December 7, 2026  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Luedtke  
Co-Sponsor: Councilmember Katz and Council President Glass

### AN ACT to:

- (1) require boards, committees, and commissions to publish, within certain timeframes, the dates, times and locations of meetings, meeting agendas, and meeting minutes;
- (2) require boards, committees, and commissions to make meeting recordings available under certain circumstances;
- (3) ~~[[require the posting of draft meeting minutes under certain circumstances;~~
- (4) ~~]]~~ require certain reporting by the Office of the County Executive to the Council; and
- ~~[[~~(5)~~]]~~ (4) generally amend the laws regarding boards, committees, and commissions and regarding open meetings.

By adding  
Montgomery County Code  
Chapter 2. Administration  
Section 2-149A

*The County Council for Montgomery County, Maryland approves the following Act:*

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

1           **Sec. 1. Section 2-149A is added as follows:**

2    **2-149A. Open meetings – supplemental requirements.**

3           (a)    Open Meetings Act – additional requirements. A group must comply  
4                   with the requirements under this section, in addition to the requirements  
5                   under the state Open Meetings Act, Title 3 of the General Provisions  
6                   Article of the Maryland Code, as amended.

7           (b)    Notices of meetings.

8                   (1)    Except as provided under paragraph (3), a group must publish the  
9                           notice required under Section 3-302 of the Open Meetings Act:

10                    (A)   within 5 business days after the group has determined the  
11                           meeting date; and

12                    (B)   at least 2 calendar days before the meeting.

13                   (2)    If a meeting will include virtual access, the group must publish  
14                           how the public may attend the meeting virtually.

15                   (3)    If the requirements of paragraph (1) cannot be met due to an  
16                           emergency, a group must:

17                    (A)   publish the notice at least 24 hours in advance of the  
18                           meeting; and

19                    (B)   indicate in the notice that the meeting is an emergency  
20                           meeting.

21           (c)    Meeting agendas.

22                   (1)    Except as provided under paragraph (2), a group must publish the  
23                           agenda of a meeting under Section 3-302.1 of the Open Meetings  
24                           Act:

25                    (A)   within 5 business days after the group has determined the  
26                           agenda; and

27                    (B)   at least 2 calendar days before the meeting.

(2) If the requirements of paragraph (1) cannot be met due to an emergency, a group must:

(A) publish the agenda at least 24 hours in advance of the meeting; and

(B) indicate on the agenda that the meeting is an emergency meeting.

(3) If the requirements of paragraph (2) cannot be met due to an emergency declared by the Governor of Maryland or the County Executive, a group must:

(A) publish the agenda as soon as practicable in advance of the meeting; and

(B) indicate on the agenda that the meeting is an emergency meeting.

(d) Meeting minutes and recordings.

(1) Within 5 business days after it meets, a group must publish, []:

(A)] if the group recorded the full meeting, a file of the recording, or a link to the recording []; or

(B) if the group did not record the full meeting, draft meeting minutes]].

(2) Within 5 business days after approving meeting minutes, a group must []:

(A)] publish the approved minutes under Section 3-306 of the Open Meetings Act []; and

(B) if draft minutes of the meeting were published under paragraph (1), remove the draft minutes]].

(e) Compliance and reporting requirements.

- 54           (1)   The County department or office assigned to staff a group must  
55               ensure the group's compliance with the requirements of this  
56               section.
- 57           (2)   A group member, or member of the public, may complain to [[the  
58               Office of Community Partnerships]] an office or department  
59               designated by the County Executive if a group does not comply  
60               with the requirements of this section.
- 61           (3)   The [[Office of Community Partnerships]] designated office or  
62               department:
- 63               (A)   may consult with the group, and staff assigned to the  
64               group, to address compliance issues under this section; and
- 65               (B)   must report in writing to the Council, on a quarterly basis,  
66               regarding complaints received under this section and the  
67               resolutions of those complaints.
- 68           (4)   Nothing in this Section prevents an individual from submitting a  
69               complaint to the state Open Meetings Compliance Board under  
70               the state Open Meetings Act, Title 3 of the General Provisions  
71               Article of the Maryland Code, as amended.




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

M E M O R A N D U M

February 28, 2023

TO: Evan Glass, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Bill 8-23, Board, Committees, and Commissions – Open Meetings –  
Supplemental Requirements

Thank you for this opportunity to provide testimony regarding Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements. While I believe this Bill is not required, I appreciate the issues raised by Councilmember Luedtke, and assure the Council that compliance by the County's Boards, Commissions, and Committees (BCCs) with the State Open Meetings Act is my priority.

A year ago, the Open Meetings Compliance Board informed the County about a complaint alleging that County Boards, Commissions, and Committees (BCCs) were in violation of some combination of one of four requirements of the Open Meetings Act: 1) no listed meeting access information to observe the public meeting; 2) no meeting notice information on the public website; 3) no listed meeting agenda information on the public website; and 4) no meeting minutes published on the public website.

Due to COVID and the large number of BCCs in the County, some BCCs did fall into areas of noncompliance. My office is ensuring that all BCCs come into full compliance with the Act.

We have reminded our department staff that meeting notices must be posted on the BCC Trumba calendar for at least six months. Meeting agendas must be made available at the same time as the meeting notice is posted if the agenda has been determined. If an agenda has not been determined at the time the meeting notice is posted, the agenda must be made available no later than 24 hours before the meeting. If the BCC has a website, the agenda should be posted there.

Meeting minutes and recordings of meetings must be kept for five years. We promote the Council's minutes as a format for our BCCs to follow. Recordings of meetings are not required, but staff must keep the recordings for 5 years. Subcommittees are subject to the open meetings act only if the subcommittee is established in the BCC's enabling document or bylaws.

All BCC members (including ex officio members) and staff are required to take Open Meetings Act training within 90 days of their confirmation or assignment to a BCC. The training takes approximately 2-1/2 hours and consists of six training lessons. At completion of the training, each member receives a certificate that they must upload to the BCC webpage.

Overseeing compliance of more than 90 BCCs is challenging. We rely greatly on our departments to provide timely support to the BCCs. Moving forward, while we already require notices of BCC meetings to be posted on our central calendar, we plan to create a central public repository for BCC agendas and minutes.

Should the Council enact Bill 8-23, I recommend removing the requirement for draft minutes to be posted within five days of a meeting. A five-day publication of draft minutes is not a standard expected by Open Meetings Act or followed by our elected public bodies. This provision in the Bill will create additional pressure on BCC staff to produce draft minutes that would not satisfy any requirement for meeting minutes under the Open Meeting Act and may contain inaccuracies.

Additionally, the Office of the County Executive is the point of contact for complaints about BCC compliance with the Open Meetings Act. It should be noted that complaints may also be taken to the Open Meetings Board and those are already publicly posted on the OMCP website.

Finally, please note Bill 8-23 only applies to BCCs administered by the Executive Branch. Legislative Branch or MNCPPC advisory Committees would not be covered by its requirements. I recommended that local standards for BCCs that differ from the State Open Meeting Act should apply to all County agencies.

# Fiscal Impact Statement

Office of Management and Budget

## Bill 8-23

## Boards, Committees, and Commissions - Open Meetings - Supplemental Requirements

### Bill Summary

Bill 8-23 adds supplemental procedural requirements that boards, committees, and commissions (BCCs) must follow regarding open meetings. Specifically, the bill requires BCCs to publish notice of meetings, meeting agendas, and meeting minutes and/or recordings within specified time frames.

### Fiscal Impact Summary

The bill is not expected to impact County revenues or expenditures.

Fiscal Year	2023	2024	2025	2026	2027	2028	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

### Fiscal Impact Analysis

Altering procedural requirements for BCCs would not impact County revenues or expenditures. However, there could be an operational impact due to the expedited requirements of publishing meeting notices, agendas, and meeting minutes or recordings.

### Staff Impact

Altering procedural requirements for publishing meeting notices, agendas, and meeting minutes or recordings could have an operational impact on BCCs and the departments that staff them. However, any impact is expected to be minimal and could be absorbed within the existing workloads of the staffing departments.

### Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

### Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

### Other Information

*Later actions that may impact revenue or expenditures if future spending is projected*

The bill does not authorize future spending.

### Contributors

Abdul Rauf, Office of Management and Budget  
Taleah Parker, Office of the County Executive





# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **BILL 8-23:       BOARDS, COMMITTEES, AND COMMISSIONS – OPEN MEETINGS – SUPPLEMENTAL REQUIREMENTS**

### **SUMMARY**

The Office of Legislative Oversight (OLO) anticipates Bill 8-23 will have a minimal impact on racial equity and social justice (RESJ) in the County. Absent a RESJ focus in boards, committees, and commissions (BCCs), increasing transparency in BCC meetings is not expected to have differing effects on constituents by race and ethnicity nor impact racial and social inequities in the County.

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### **PURPOSE OF RESJ IMPACT STATEMENTS**

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### **PURPOSE OF BILL 8-23**

Montgomery County has over 80 boards, committees, and commissions (BCCs).<sup>3</sup> The County's BCCs are subject to both the state's Open Meeting Act and Article XI, Chapter 2 of the County Code.

The goal of Bill 8-23 is "to enhance existing open meetings and procedural requirements." The Bill seeks to do so by amending the County Code to further govern the operation of County BCCs. It would require BCCs to:

- publish notice of meetings within 5 business days after the meeting date has been determined, and at least 2 calendar days prior to the meeting;
- publish meeting agendas within 5 business days after they have been determined, and at least 2 calendar days prior to the meeting; and
- publish either a recording of the meeting or draft meeting minutes within 5 days after a meeting.

The County department or office assigned to staff a BCC would be required to ensure its compliance with the requirements of the legislation.<sup>4</sup>

Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements, was introduced by the Council on February 14, 2023.

# RESJ Impact Statement

## Bill 8-23

### BCCs AND RACIAL EQUITY

As described by the Maryland Municipal League, BCCs “can be an effective way of involving citizens in the decision-making process of local government.”<sup>5</sup> BCCs are mostly comprised of constituents who volunteer their time and expertise to advise the County Council and County Executive on a range of issues in the community, from child care and historic preservation to mental health and water quality. While BCCs vary in size and scope, they can be influential in many ways. The following examples illustrate the variety of BCCs in the County and noteworthy activities:

- The **Library Board** is comprised of twelve volunteers who meet monthly to advise County officials “on matters affecting the public library system, such as the location of new library facilities, the adequacy of book collections,” and other related areas.<sup>6</sup> As of December 2022, the Library Policies and Practices Work Group within the board is working to coordinate a broad review of Montgomery County Public Libraries (MCPL) policies and procedures to identify areas of improvement and necessary updates.<sup>7</sup>
- The **Animal Services Advisory Committee** is comprised of eleven volunteers who meet monthly to advise County officials “on issues pertaining to animal care and welfare, animal rescue, animal fostering and adoption,” and other related areas.<sup>8</sup> In December 2022, members of the committee voted to submit a proposal for a low to no-cost spay/neuter program in the County after noticing funding was not included in the County Executive’s FY24 budget. Members noted in a subsequent meeting that the County Executive expressed support for funding the program.<sup>9</sup>
- The **Commission on Aging** is comprised of at least eighteen volunteers who meet monthly to advise County officials “on the interests, needs and problems facing older adults in Montgomery County.”<sup>10</sup> In 2021, the commission published an informational sheet for the community providing facts and resources on social isolation and loneliness in older adults.<sup>11</sup>

Given their ability to influence local government policies and practices, BCCs can play a key role in advancing RESJ in the community. Many local governments have established dedicated advisory groups as a tool for advancing RESJ. For instance, the County’s RESJ Advisory Committee “recommends policies, programs, legislation, or regulations necessary to reduce racial and social justice inequity” in the County.<sup>12</sup> However, as structural racial inequities exist in all facets of society, integrating a RESJ focus in all BCCs – as is currently being done in County departments – could help reinforce RESJ efforts in the County. For instance:

- The Library Board could study the local drivers of disproportionalities in MCPL staff representation and make recommendations for program, policy, and funding changes to address inequities.<sup>13</sup>
- The Animal Services Advisory Committee could support the Office of Animal Services in gathering input from Black, Indigenous, and Other People of Color (BIPOC) constituents on local racial inequities in animal rescue and welfare, pet adoption, and licensing fees.<sup>14</sup>
- The Commission on Aging could study the local drivers of food insecurity among BIPOC older adult constituents and make recommendations for program, policy, and funding changes to address inequities.<sup>15</sup>

Since BCCs serve as the community’s voice on a variety of issues, racially and ethnically diverse representation on BCCs is also important for advancing RESJ to ensure the perspectives of BIPOC constituents are considered.

# RESJ Impact Statement

## Bill 8-23

### ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 8-23 will have a minimal impact on RESJ in the County. Absent a RESJ focus in BCCs, increasing transparency in BCC meetings is not expected to have differing effects on constituents by race and ethnicity nor impact racial and social inequities in the County.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>16</sup> OLO anticipates Bill 8-23 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, if the Council seeks to improve the RESJ impact of the Bill, OLO offers three items for consideration:

- **Amend RESJ Act to require RESJ training and action plans for each BCC.** As discussed in ‘BCCs and Racial Equity,’ integrating a RESJ focus in all BCCs could help reinforce RESJ efforts in the County.
- **Amend Office of Racial Equity and Social Justice (ORESJ) Executive Regulations to require BCCs to develop RESJ action plans (in 2026 or later).** Should a requirement be enacted for BCCs to develop RESJ action plans, prescribing a due date in ORESJ’s Executive Regulations would support BCCs in prioritizing this activity.
- **Request a diversity audit for BCCs.** To understand whether representation on BCCs is representative of the County’s demographics, the Council could request a diversity audit to collect data on the demographics of each BCC (e.g., race, ethnicity, gender identity, age) to compare to overall County demographics. A detailed understanding of BCC demographics would give a baseline understanding of potential disproportionalities in BCC representation, which could be used to identify opportunities for enhancing RESJ. In 2019, the City of Sacramento published a comprehensive diversity audit of its BCCs.<sup>17</sup>

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the bill under consideration.

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### CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

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<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

# RESJ Impact Statement

## Bill 8-23

<sup>3</sup> Board, Committees, and Commissions, Office of the County Executive, Montgomery County, Maryland.

<https://www.montgomerycountymd.gov/boards/list.html>

<sup>4</sup> Introduction Staff Report for Bill 8-23, Introduced February 14, 2023.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230214/20230214\\_2A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230214/20230214_2A.pdf)

<sup>5</sup> Citizen Boards, Commissions, and Committees, Maryland Municipal League, February 3, 2012.

<http://www.mdmunicipal.org/DocumentCenter/View/270/Citizen-Boards-Commissions-and-Committees?bidId=>

<sup>6</sup> “About the Montgomery County Library Board” Montgomery County Public Libraries.

<https://www.montgomerycountymd.gov/Library/board/index.html>

<sup>7</sup> December 14, 2022 Meeting Minutes of Montgomery County Library Board, Montgomery County Public Libraries.

<https://www.montgomerycountymd.gov/library/resources/files/board/minutes/board-minutes-20221214.pdf>

<sup>8</sup> “About,” Animal Services Advisory Committee, Office of the County Executive.

<https://www.montgomerycountymd.gov/boards/sites/asac/>

<sup>9</sup> Meeting Minutes for December 6, 2022 and January 12, 2023, Animal Services Advisory Committee, Office of the County Executive.

<https://www.montgomerycountymd.gov/boards/sites/asac/>

<sup>10</sup> “Home,” Commission on Aging, Office of the County Executive. [https://www.montgomerycountymd.gov/HHS-](https://www.montgomerycountymd.gov/HHS-Program/ADS/COA/COAIndex.html)

[Program/ADS/COA/COAIndex.html](https://www.montgomerycountymd.gov/HHS-Program/ADS/COA/COAIndex.html)

<sup>11</sup> Commission on Aging Montgomery County, Maryland 2021 Annual Report, Commission on Aging, May 2022.

[https://www.montgomerycountymd.gov/HHS-Program/Resources/Files/A%26D%20Docs/COA/Annual\\_QuarterlyReports/Annual%20Reports/2021%20COA%20Annual%20Report.pdf](https://www.montgomerycountymd.gov/HHS-Program/Resources/Files/A%26D%20Docs/COA/Annual_QuarterlyReports/Annual%20Reports/2021%20COA%20Annual%20Report.pdf)

<sup>12</sup> “About,” Racial Equity and Social Justice Advisory Committee, Office of the County Executive.

<https://www.montgomerycountymd.gov/boards/sites/RESJ/index.html>

<sup>13</sup> Referenced as MCPL Strategic Planning Consideration in Memorandum from Carolyn Chen to Education & Culture Committee, FY23 Recommended Operating Budget Worksession: Public Libraries [MCPL], April 22, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20220425/20220425\\_EC2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20220425/20220425_EC2.pdf)

<sup>14</sup> Referenced as OAS Strategic Planning Consideration in Memorandum from Carolyn Chen to Public Safety Committee, FY23 Recommended Operating Budget Worksession: Office of Animal Services, May 4, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20220506/20220506\\_PS2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20220506/20220506_PS2.pdf)

<sup>15</sup> The State of Senior Hunger in 2020, Feeding America, May 2022. [https://www.feedingamerica.org/sites/default/files/2022-05/The%20State%20of%20Senior%20Hunger%20in%202020\\_Executive%20Summary.pdf](https://www.feedingamerica.org/sites/default/files/2022-05/The%20State%20of%20Senior%20Hunger%20in%202020_Executive%20Summary.pdf)

<sup>16</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>17</sup> 2019 Audit of Diversity, Equity, and Inclusion Audit of Boards, Committees, and Commissions, City of Sacramento, Office of the City Auditor, December 2019. <https://www.cityofsacramento.org/-/media/Corporate/Files/Auditor/IBA-Reports/2019-Audit-of-Diversity-Equity-and-Inclusion-of-Boards-Committees-and-Commissions.pdf?la=en>

# Climate Assessment

## Office of Legislative Oversight

### Bill 8-23: Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements

#### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 8-23 will have little to no impact on the County's contribution to addressing climate change as it proposes minor changes intended to enhance open meetings and procedural requirements.

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#### BACKGROUND AND PURPOSE OF BILL 8-23

Montgomery County has over 80 boards, committees, and commissions (BCCs). The County's BCCs are subject to, both, the state's Open Meeting Act and Article XI, Chapter 2 of the County Code.

The goal of Bill 8-23 is "to enhance existing open meetings and procedural requirements." The Bill seeks to do so by amending the County Code to further govern the operation of County BCCs. It would require BCCs to:

- publish notice of meetings within 5 business days after the meeting date has been determined, and at least 2 calendar days prior to the meeting;
- publish meeting agendas within 5 business days after they have been determined, and at least 2 calendar days prior to the meeting; and
- publish either a recording of the meeting or draft meeting minutes within 5 days after a meeting.

The County department or office assigned to staff a BCC would be required to ensure its compliance with the requirements of the legislation.

Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements was introduced by the Council on February 14, 2023.<sup>1</sup>

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#### ANTICIPATED IMPACTS

Bill 8-23's purpose is to enhance existing open meetings and further increase transparency of all Montgomery County's BCCs. Increasing access to local information can have a positive impact on community resilience.<sup>2</sup> However, as these BCCs already have open meeting requirements through existing state and County laws, it is likely there will be little, if any, significant increased access to local information.

OLO anticipates Bill 8-23 will have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

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## RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.<sup>3</sup> OLO does not offer recommendations or amendments as Bill 8-23 is likely to have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

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## CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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## PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These Climate Assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

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## CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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<sup>1</sup> [Introduction Staff Report](#) for Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements, Montgomery County Council, February 14, 2023.

<sup>2</sup> ["Information Sharing and Community Resilience: Toward a Whole Community Approach to Surveillance and Combatting the 'Infodemic'", Myers, N., September 13, 2021.](#)  
["Increasing Community Resilience through Improved Lifeline Infrastructure Performance", National Academy of Engineering, July 1, 2019.](#), ["Building resilience: The relationship between information provided by municipal authorities during emergency situations and community resilience", Cohen, O., Goldberg, A., Lahad, M., and Aharonson-Daniel, L., August 2017.](#)

<sup>3</sup> Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

**Testimony to the Montgomery County Council**

**Hearing Date: February 28, 2023**

**In re: Bill 8-23, Boards, Committees, and Commissions - Open Meetings -  
Supplemental Requirements**

**Position: Support**

As you all know, this bill would require boards, committees, and commissions to provide more information to the public both in advance of meetings and as a result of meetings.

Specific examples include the following: publish, within certain timeframes, the dates, times and locations of meetings, meeting agendas and meeting minutes; require boards, committees and commissions to make meeting recordings available under certain circumstances; require the posting of draft meeting minutes under certain circumstances; require certain reporting by the Office of the County Executive to the Council; and generally amend the laws regarding boards, committees and commissions and regarding open meetings.

LWVMC believes that government should be as open as possible to the people it serves and should certainly make it easier for us to ascertain plans and results.

Vicky Strella and Nancy Bliss, co-presidents  
Joan Siegel and Linda Silversmith, co-vice-presidents for advocacy



# Economic Impact Statement

Montgomery County, Maryland

## Bill 8-23

## Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 8-23 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

### BACKGROUND AND PURPOSE OF BILL 8-23

Montgomery County has over 80 boards, committees, and commissions (BCCs).<sup>1</sup> The County's BCCs are subject to both the state's Open Meeting Act and Article XI, Chapter 2 of the County Code.

The goal of Bill 8-23 is "to enhance existing open meetings and procedural requirements." The Bill seeks to do so by amending the County Code to further govern the operation of County BCCs. It would require BCCs to:

- publish notice of meetings within 5 business days after the meeting date has been determined, and at least 2 calendar days prior to the meeting;
- publish meeting agendas within 5 business days after they have been determined, and at least 2 calendar days prior to the meeting; and
- publish either a recording of the meeting or draft meeting minutes within 5 days after a meeting.

The County department or office assigned to staff a BCC would be required to ensure its compliance with the requirements of the legislation.<sup>2</sup>

Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements, was introduced by the Council on February 14, 2023.

### INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 8-23 on County-based private organizations and residents in terms of the Council's priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.<sup>3</sup> Based on the transparency measures prescribed in Bill 8-23 and a review of research on government

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<sup>1</sup> Board, Committees, and Commissions, Office of the County Executive, Montgomery County, Maryland.  
<https://www.montgomerycountymd.gov/boards/list.html>

<sup>2</sup> Introduction Staff Report for Bill 8-23, Introduced February 14, 2023.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230214/20230214\\_2A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230214/20230214_2A.pdf)

<sup>3</sup> Montgomery County Code, [Sec. 2-81B](#).

transparency performed in a previous economic impact statement,<sup>4</sup> OLO does not expect Bill 8-23 to affect County BCCs enough to generate significant economic impacts on residents, private organizations, or overall economic conditions in the County in terms of the indicators prioritized by the Council.

## VARIABLES

Not applicable

## IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

## DISCUSSION ITEMS

Not applicable

## WORKS CITED

Cucciniello, Maria, Gregory A. Porumbescu, and Stephan Grimmelikhuijsen. "[25 Years of Transparency Research: Evidence and Future Directions](#)." *Public Administration Review* (2017): 32-44.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. Bill 8-23, Boards, Committees, and Commissions – Open Meetings – Supplemental Requirements, Introduced February 14, 2023.

Office of Legislative Oversight. [Economic Impact Statement: Bill 11-21](#).

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

## AUTHOR

Stephen Roblin (OLO) prepared this report.

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<sup>4</sup> See Cucciniello, et al, "[25 Years of Transparency Research](#)" and [Economic Impact Statement: Bill 11-21](#).