

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



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TTY USERS CALL VIA MD RELAY

November 6, 2017

Ms. Deborah Spence
Administrator
Open Meetings Compliance Board
200 St. Paul Place
Baltimore, MD 21202

Re: October 26, 2017 Open Meeting Act Complaint Filed by Maryland Democratic Party

Dear Ms. Spence:

I am writing to request that the Open Meetings Compliance Board dismiss the complaint filed by the Maryland Democratic Party against the Committee on Paid Leave Policy (the "Committee"). A simple comparison of Executive Order 01.01.2017.08 (the "EO") (attached as Exhibit 1), which created the Committee, to Md. Code Ann., Gen. Prov. § 3-101(h)(3)(vii), makes clear that the Open Meetings Act (the "Act") does not apply, as the Committee falls within an express exception to the definition of "public bodies."

The Act only applies to "public bodies." *See* Md. Code Ann., Gen. prov. § 3-102(c). The Act specifically excludes from the definition of "public bodies" various entities, including any committee of the Governor's Executive Council. *Id.* at § 3-101(h)(3)(vii). Paragraph A of the EO provides that the Committee is established as a committee of the Governor's Executive Council. That is the beginning and end of the analysis. The Act does not apply.

This reading is consistent with the Attorney General's advice that there are express exclusions from the definition of "public bodies," and that "[i]f an entity does not meet the Act's definition of 'public body,' the Act does not apply to that entity's gatherings." *See* Open Meetings Act Manual (9th ed., rev. June 2017) at 1-1, 1-2 and 1-5. That is the case here.

The Governor respectfully requests that the Complaint be dismissed.

Very truly yours,

A handwritten signature in blue ink, appearing to read "R. Scholz", written over the typed name.

Robert F. Scholz
Chief Legal Counsel

cc: Kathleen Matthews, Chair, Maryland Democratic Party (via regular mail)



The State of Maryland
Executive Department

EXECUTIVE ORDER
01.01.2017.08

Committee on Paid Leave Policy

- WHEREAS, A strong and healthy workforce benefits all Marylanders;
- WHEREAS, Marylanders who do not earn any paid leave can face economic distress because of missed work when they or their families are ill or require medical care;
- WHEREAS, Excessively burdening small businesses leads to loss of jobs, higher unemployment, stagnation in the creation of new businesses, stymied growth for existing businesses, and other detrimental economic effects for Maryland citizens;
- WHEREAS, Any statewide law or policy regarding the provision of earned paid leave must strike a careful balance of providing benefits without costing Maryland workers their jobs or eliminating new economic opportunities for them;
- WHEREAS, There has been insufficient study of Marylanders' access to paid leave and how it can be improved by a fair and flexible statewide leave policy;
- WHEREAS, Reliable data is also lacking as to how mandated leave policies would specifically impact the Maryland workforce;
- WHEREAS, Such data is necessary for the development of a commonsense, balanced, and flexible policy for the provision of paid leave in Maryland; and
- WHEREAS, A comprehensive study of the needs and proposed policies for paid leave in Maryland should be done in consultation with all relevant employer and employee stakeholders in order to make policy recommendations to the Governor,

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Establishment. The Governor's Executive Council shall have a Committee on Paid Leave Policy (the "Committee").

B. Membership.

a. The Committee shall consist of the heads, or their designees, of the following State agencies and such other agencies on the Governor's Executive Council as the Governor may later designate:

i. The Department of Labor, Licensing and Regulation;

ii. The Department of Commerce; and

iii. The Department of Human Resources.

b. Staff members from the Office of the Governor and Lieutenant Governor, including the Governor's Office of Minority Affairs, will also be regular participants.

c. The Secretary of the Department of Labor, Licensing and Regulation shall be Chair of the Committee. The Chair shall:

i. Oversee the implementation of this Executive Order and the work of the Committee;

ii. Determine the Committee's agenda; and

iii. Identify any needs of the Committee for additional support.

- d. Other State agencies may be asked to participate at the invitation of the Chair.

C. Duties.

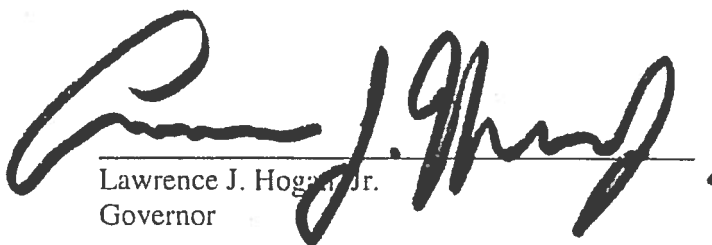
- a. The Committee shall collect data and information for the purpose of assessing Maryland workers' access to paid leave and the extent to which providing such leave would impose burdens and hardships on Maryland businesses.
- b. The Committee shall survey employers and workers across Maryland to understand needs, challenges, and opportunities relating to the provision of paid leave.
- c. The survey shall engage a cross-section of industries and employees that are representative of the overall economy and workforce of Maryland.
- d. The Committee shall closely consult and collaborate with the Governor's Office of Minority Affairs to obtain feedback, information, and data from minority- and women-owned businesses.
- e. The Committee shall develop recommendations for policy, regulations, or legislation that would achieve an optimal balance of providing access to and enforcing paid leave without causing detrimental economic effects that could cost Maryland workers their jobs or deprive them of other beneficial economic opportunities.
- f. The Committee shall update the Governor, every 45 days from the date of this Executive Order, on its efforts to develop an accurate understanding of the needs for paid leave in Maryland and the effects of various proposed statewide policies.

g. The Department of Labor, Licensing and Regulation shall, before December 1, 2017, submit a report to the Governor stating the Committee's findings and recommendations.

D. Procedures.


- a. A majority of the Committee shall constitute a quorum for the transaction of any business.
- b. The Committee may adopt other procedures as necessary to ensure the orderly transaction of business.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 25th Day of May, 2017.



Lawrence J. Hogan, Jr.
Governor

ATTEST:



John C. Wobensmith
Secretary of State

