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STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

Opinion No. 5724

June 20, 1980

OPEN MEETINGS ACT:

18-hour notice for special meeting

The minimum 18-hour notice required for a special meeting of a public body is not fulfilled if the public is denied access to the notice of the meeting for any part of the 18 hours. The requirement may be met by posting a notice at least 18 hours in advance of the special meeting on the outside of the building which houses the principal office of the public body, at the main entrance.

Honorable Thomas J. Anderson

State Representative

The Capitol

Lansing, Michigan 48909

Honorable George Hart

State Senator

The Capitol

Lansing, Michigan 48909

You have requested my opinion on the following question:

Does the 18-hour notice provision for special meetings contained in the Open Meetings Act, 1976 PA 267, MCLA 15.261 et seq; MSA 4.1800(11) et seq, require that the notice be posted in a manner which would allow public access to the notice for the entire 18-hour period?

Section 4 of the Open Meetings Act, supra, provides, in part:

'The following provisions shall apply with respect to public notice of meetings;

'(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body.

'(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.'

Section 5 of the Open Meetings Act, supra, provides, in pertinent part:

'(1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

'(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the

public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

'(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

'(4) For a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting. . . .' [Emphasis added]

In Wexford County Prosecutor v Pranger, 83 Mich App 197, 204; 268 NW2d 344 (1978), the court stated:

' . . . we believe the Michigan Open Meetings Act . . . is entitled to a broad interpretation to promote openness in government.'

It is clear that the Legislature has sought to provide to the public reasonable notice of all special meetings of public bodies. The Legislature sought to accomplish this by requiring annual notice of meetings regularly scheduled for the year and a minimum of 18 hours notice for all special meetings.⁽¹⁾ Furthermore, the Act requires that the public notice be posted at the public body's principal office, at any other locations considered appropriate by the public body, as well as at certain locations designated by the public body.

It must be recognized that if it were to be held that the Act's minimum 18-hour notice requirement may be met by a public body without consideration as to public accessibility to the notice, it would then be possible to post a notice of a public meeting at a location closed to the public immediately following the posting. For example, the circumstance could arise where the notice of a Monday morning public meeting is posted in the afternoon of the prior Friday at a principal office closed for the weekend. Although notice of the Monday morning meeting would have been posted for well over 18 hours prior to the meeting, such a procedure would not notify the public of the meeting as contemplated by the Legislature.

The courts of this State have stressed many times that statutes should be construed so as to give effect to its legislative purpose and obviate absurd results. State Highway Commissioner v Detroit City Controller, 331 Mich 337; 49 NW2d 318 (1951), Smith v City Commission of Grand Rapids, 281 Mich 235; 274 NW 776 (1937). In People v Lawrence, 54 Mich App 13, 16; 219 NW2d 802 (1974), the Court of Appeals reiterated the general rule of construction that 'the spirit and purpose of a statute should prevail over its strict letter'. c.f. Aikens v Department of Conservation, 387 Mich 495; 198 NW2d 304 (1972), People v Otis Adams, 34 Mich App 546; 192 NW2d 19 (1971).

It is my opinion, therefore, that the minimum 18-hour notice requirement for a special meeting of a public body is not fulfilled if the public is denied access to the notice for any part of the 18 hours. The requirement may be met by posting at least 18 hours in advance of the special meeting on the outside of the building which houses the principal office of the public body, at the main entrance.

Frank J. Kelley

Attorney General

(1) In case of an emergency posing a severe and immense threat to the public health, safety and welfare, a public body may hold a session without notice 'when 2/3 of the members serving on the public body decide that delay would be detrimental to efforts to lessen or respond to the threat.' 1976 PA 267, Sec. 5(5), supra. Also, a recessed meeting of a regular or special meeting does not require the posting of any notice if it is to be held less than 36 hours after the meeting which was recessed. Section 5(5).

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