

SENATE BILL 111

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P3

2004 Regular Session
4lr1113

By: ~~Senator Hollinger~~ **Senators Hollinger and Dyson**
Introduced and read first time: January 21, 2004
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 13, 2004

CHAPTER 440

1 AN ACT concerning

2 **State Government - Open Meetings Act - Public Body**

3 FOR the purpose of altering the definition of a public body to include, for certain
4 purposes, certain boards, commissions, and committees; exempting certain
5 subcommittees from the definition of a public body; requiring a public body to
6 include a copy of a certain notice, a certain written statement, and certain
7 minutes or tape recordings with a certain written response to the Open
8 Meetings Compliance Board under certain circumstances; requiring the Board
9 to maintain the confidentiality of certain minutes and tape recordings; requiring
10 a public body to keep a copy of a certain notice, a certain written statement, and
11 certain minutes and tape recordings for a certain period of time; making certain
12 clarifications; and generally relating to the records kept by a public body.

13 BY repealing and reenacting, with amendments,
14 Article - State Government
15 Section 10-502(h), 10-502.5(c)(2), and 10-509(c)(3)
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - State Government
20 Section 10-506(a) and 10-508(d)(2)
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2003 Supplement)

23 BY adding to
24 Article - State Government

1 Section 10-506(d), 10-508(d)(5), and 10-509(e)
2 Annotated Code of Maryland
3 (1999 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - State Government**

7 10-502.

8 (h) (1) "Public body" means an entity that:

9 (i) consists of at least 2 individuals; and

10 (ii) is created by:

11 1. the Maryland Constitution;

12 2. a State statute;

13 3. a county charter;

14 4. an ordinance;

15 5. a rule, resolution, or bylaw;

16 6. an executive order of the Governor; or

17 7. an executive order of the chief executive authority of a
18 political subdivision of the State.

19 (2) "Public body" includes:

20 (i) any multimember board, commission, or committee appointed
21 by the Governor or the chief executive authority of a political subdivision of the State,
22 OR APPOINTED BY AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE
23 GOVERNOR OR CHIEF EXECUTIVE AUTHORITY OF THE POLITICAL SUBDIVISION, if
24 the entity includes in its membership at least 2 individuals not employed by the State
25 or [a] THE political subdivision [of the State]; and

26 (ii) The Maryland School for the Blind.

27 (3) "Public body" does not include:

28 (i) any single member entity;

29 (ii) any judicial nominating commission;

30 (iii) any grand jury;

1 (iv) any petit jury;

2 (v) the Appalachian States Low Level Radioactive Waste
3 Commission established in § 7-302 of the Environment Article;

4 (vi) except when a court is exercising rulemaking power, any court
5 established in accordance with Article IV of the Maryland Constitution;

6 (vii) the Governor's cabinet, the Governor's Executive Council as
7 provided in Title 8, Subtitle 1 of the State Government Article, or any committee of
8 the Executive Council;

9 (viii) a local government's counterpart to the Governor's cabinet,
10 Executive Council, or any committee of the counterpart of the Executive Council;

11 (ix) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION,
12 A SUBCOMMITTEE OF A PUBLIC BODY AS DEFINED UNDER PARAGRAPH (2)(I) OF THIS
13 SUBSECTION;

14 (X) the governing body of a hospital as defined in § 19-301(g) of the
15 Health - General Article; and

16 [(x)] (XI) a self-insurance pool that is established in accordance
17 with Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and
18 Employment Article by:

19 1. a public entity, as defined in § 19-602 of the Insurance
20 Article; or

21 2. a county or municipal corporation, as defined in § 9-404 of
22 the Labor and Employment Article.

23 10-502.5.

24 (c) (2) (I) The public body shall file a written response to the complaint
25 within 30 days of its receipt of the complaint.

26 (II) ON REQUEST OF THE BOARD, THE PUBLIC BODY SHALL
27 INCLUDE WITH ITS WRITTEN RESPONSE TO THE COMPLAINT A COPY OF:

28 1. A NOTICE PROVIDED UNDER § 10-506 OF THIS SUBTITLE;

29 2. A WRITTEN STATEMENT MADE UNDER § 10-508(D)(2)(II) OF
30 THIS SUBTITLE; AND

31 3. MINUTES AND ANY TAPE RECORDING MADE BY THE
32 PUBLIC BODY UNDER § 10-509 OF THIS SUBTITLE.

33 (III) THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF
34 MINUTES AND ANY TAPE RECORDING SUBMITTED BY A PUBLIC BODY THAT ARE
35 SEALED IN ACCORDANCE WITH § 10-509(C)(3)(II) OF THIS SUBTITLE.

1 10-506.

2 (a) Before meeting in a closed or open session, a public body shall give
3 reasonable advance notice of the session.

4 (D) A PUBLIC BODY SHALL KEEP A COPY OF A NOTICE PROVIDED UNDER THIS
5 SECTION FOR AT LEAST 1 YEAR AFTER THE DATE OF THE SESSION.

6 10-508.

7 (d) (2) Before a public body meets in closed session, the presiding officer
8 shall:

9 (i) conduct a recorded vote on the closing of the session; and

10 (ii) make a written statement of the reason for closing the meeting,
11 including a citation of the authority under this section, and a listing of the topics to be
12 discussed.

13 (5) A PUBLIC BODY SHALL KEEP A COPY OF THE WRITTEN STATEMENT
14 MADE UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION FOR AT LEAST 1 YEAR AFTER
15 THE DATE OF THE SESSION.

16 10-509.

17 (c) (3) (i) A [closed] session may be tape recorded BY A PUBLIC BODY.

18 (ii) [A public body shall provide for the preservation for 1 year of its
19 minutes and any tape recording of its closed meetings.

20 (iii)] Except as otherwise provided in paragraph (4) of this
21 subsection, the minutes and any tape recording of a closed session shall be sealed and
22 may not be open to public inspection.

23 (E) A PUBLIC BODY SHALL KEEP A COPY OF THE MINUTES OF EACH SESSION
24 AND ANY TAPE RECORDING MADE UNDER SUBSECTION (C)(3)(I) OF THIS SECTION FOR
25 AT LEAST 1 YEAR AFTER THE DATE OF THE SESSION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2004.