

SENATE BILL 644

P5

(11r2293)

ENROLLED BILL

— *Education, Health, and Environmental Affairs/Health and Government Operations* —

Introduced by **Senators Ferguson and Madaleno**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Joint Committee on Transparency and Open Government Act~~
3 *State Government – Transparency and Open Government*

4 FOR the purpose of establishing the Joint Committee on Transparency and Open
5 Government; specifying the membership, chairs, and staff of the Committee;
6 requiring the Committee to hold meetings under certain circumstances;
7 authorizing the Committee to hold certain hearings and to consider certain
8 votes and resolutions; specifying the purposes of the Committee; requiring the
9 Committee to make certain recommendations, review certain laws, programs,
10 services, and policies, consult with certain State entities, and perform certain
11 other duties; requiring the Committee to submit a certain report to the General
12 Assembly on or before a certain date each year; *providing that a public body*
13 *need not prepare written minutes of an open meeting under certain*
14 *circumstances; specifying that certain information shall be deemed the minutes*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 of a certain session; clarifying provisions regarding the minutes of certain
2 meetings of a public body; altering a provision that requires a public body to keep
3 a copy of certain tape recordings; and generally relating to the Joint Committee
4 on Transparency and Open Government and minutes of meetings of a public
5 body.

6 BY adding to

7 Article – State Government

8 Section 2–10A–14

9 Annotated Code of Maryland

10 (2009 Replacement Volume and 2010 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article – State Government

13 Section 10–509

14 Annotated Code of Maryland

15 (2009 Replacement Volume and 2010 Supplement)

16 Preamble

17 WHEREAS, An open and transparent government is vital to encourage citizen
18 participation and input; and

19 WHEREAS, The presiding officers of the Senate of Maryland and the House of
20 Delegates implemented changes to the General Assembly Web site to increase
21 constituent access to government resources and actions by disclosing committee votes,
22 granting free access to all areas to the General Assembly Web site, and posting video
23 and audio streaming of committee hearings online; and

24 WHEREAS, It is in Maryland’s best interest to continue to build on and improve
25 citizen engagement in all aspects of our government; and

26 WHEREAS, Maryland’s overall rankings on government transparency by
27 prominent national organizations continues to lag behind other states; and

28 WHEREAS, Advocates have expressed a desire and need for a body that can
29 accept and consider ideas related to transparency and open government year-round;
30 and

31 WHEREAS, Other states have created special committees and work groups to
32 develop transparency policies and use technology to improve transparency and have
33 reported increases in both citizen engagement and budget savings as a result of those
34 efforts; and

35 WHEREAS, Transparency Web sites developed in other states have been
36 proven to save states millions of dollars through more efficient government operations,

1 fewer manual information requests, more competitive contracting bids, and the
2 prevention of waste and abuse of public funds due to enhanced public scrutiny; and

3 WHEREAS, Maryland needs a central legislative body that can consider various
4 policies and proposals regarding government transparency; and

5 WHEREAS, A joint committee on transparency and open government can
6 develop policies and advise the General Assembly on implementing those policies and
7 improving transparency while working with existing entities, programs, and
8 resources; now, therefore,

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

11 **Article – State Government**

12 **2–10A–14.**

13 (A) THERE IS A JOINT COMMITTEE ON TRANSPARENCY AND OPEN
14 GOVERNMENT.

15 (B) (1) THE COMMITTEE CONSISTS OF 12 MEMBERS.

16 (2) OF THE 12 MEMBERS:

17 (I) 6 SHALL BE MEMBERS OF THE SENATE OF MARYLAND,
18 APPOINTED BY THE PRESIDENT OF THE SENATE; AND

19 (II) 6 SHALL BE MEMBERS OF THE HOUSE OF DELEGATES,
20 APPOINTED BY THE SPEAKER OF THE HOUSE.

21 (C) FROM AMONG THE MEMBERSHIP OF THE COMMITTEE, THE
22 PRESIDENT OF THE SENATE SHALL APPOINT A SENATOR TO SERVE AS THE
23 SENATE CHAIR OF THE COMMITTEE, AND THE SPEAKER OF THE HOUSE SHALL
24 APPOINT A DELEGATE TO SERVE AS THE HOUSE CHAIR OF THE COMMITTEE.

25 (D) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE
26 STAFF ASSISTANCE TO THE COMMITTEE.

27 (E) THE PURPOSES OF THE COMMITTEE ARE TO:

28 (1) PROVIDE CONTINUING LEGISLATIVE OVERSIGHT REGARDING
29 TRANSPARENCY AND OPEN GOVERNMENT; AND

1 **(2) MAKE RECOMMENDATIONS REGARDING INITIATIVES THAT**
2 **WILL INCREASE CITIZEN ACCESS TO GOVERNMENT RESOURCES, PUBLICATIONS,**
3 **AND ACTIONS.**

4 **(F) THE COMMITTEE SHALL HOLD:**

5 **(1) AN ORGANIZATIONAL MEETING PROMPTLY AFTER THE**
6 **APPOINTMENT OF ITS MEMBERS; AND**

7 **(2) ANY OTHER MEETINGS THAT THE COMMITTEE CONSIDERS**
8 **NECESSARY TO CARRY OUT ITS DUTIES EFFICIENTLY.**

9 **(G) THE COMMITTEE MAY:**

10 **(1) HOLD A HEARING ON ANY MATTER RELATING TO THE**
11 **FUNCTIONS OF THE COMMITTEE; AND**

12 **(2) CONSIDER A VOTE ON A BILL OR RESOLUTION REFERRED TO**
13 **IT BY THE PRESIDENT OR THE SPEAKER.**

14 **(H) THE COMMITTEE SHALL:**

15 **(1) IDENTIFY AREAS IN WHICH THE STATE CAN IMPROVE ITS**
16 **TECHNOLOGY AND WEB SITES TO INCREASE TRANSPARENCY AND CITIZEN**
17 **ENGAGEMENT;**

18 **(2) MAKE RECOMMENDATIONS REGARDING STATE**
19 **TRANSPARENCY GOALS AND POLICIES;**

20 **(3) CONSULT WITH STATE ENTITIES THAT FOSTER**
21 **TRANSPARENCY, INCLUDING THE GOVERNOR'S STATESTAT OFFICE:**

22 **(I) WHEN DEVELOPING STATE TRANSPARENCY GOALS AND**
23 **POLICIES; AND**

24 **(II) TO IDENTIFY METHODS OF COORDINATING**
25 **TRANSPARENCY POLICIES ACROSS STATE GOVERNMENT;**

26 **(4) REVIEW STATE LAWS, PROGRAMS, SERVICES, AND POLICIES**
27 **AND MAKE RECOMMENDATIONS TO ALIGN THEM WITH STATE TRANSPARENCY**
28 **POLICIES AND GOALS;**

1 **(5) DETERMINE WHETHER THERE ARE INTERDEPARTMENTAL**
2 **GAPS, INCONSISTENCIES, AND INEFFICIENCIES IN THE IMPLEMENTATION OR**
3 **ATTAINMENT OF STATE TRANSPARENCY POLICIES AND GOALS;**

4 **(6) IDENTIFY LAWS, PROGRAMS, SERVICES, OR BUDGETARY**
5 **PRIORITIES THAT NEED TO BE ADOPTED TO ENSURE AND PROMOTE**
6 **TRANSPARENCY AND OPEN GOVERNMENT IN THE STATE;**

7 **(7) SURVEY TRANSPARENCY INITIATIVES IN OTHER STATES THAT**
8 **HAVE PROVEN EFFECTIVE AT SAVING PUBLIC FUNDS AND RESOURCES AND**
9 **ASSESS WHETHER THOSE POLICIES SHOULD BE MODIFIED AND ADOPTED FOR**
10 **USE BY THE STATE;**

11 **(8) SERVE AS AN INFORMATIONAL RESOURCE AND LIAISON FOR**
12 **ADVOCATES AND CITIZENS WITH IDEAS AND SUGGESTIONS FOR TOOLS AND**
13 **PRACTICAL IMPLEMENTATION OF INITIATIVES THAT WILL INCREASE**
14 **TRANSPARENCY;**

15 **(9) REVIEW AND MAKE RECOMMENDATIONS REGARDING ACTIONS**
16 **SUGGESTED BY ADVOCATES AND CITIZENS TO INCREASE CITIZEN ACCESS TO**
17 **GOVERNMENT RESOURCES, PUBLICATIONS, AND ACTIONS;**

18 **(10) RECOMMEND METHODS OF INCREASING PUBLIC AWARENESS**
19 **OF GOVERNMENT RESOURCES, PUBLICATIONS, AND WEB SITES; AND**

20 **(11) PERFORM ANY OTHER ACTIVITY THAT IS REQUIRED TO**
21 **FULFILL THE PURPOSES OF THE COMMITTEE.**

22 **(I) (1) SUBJECT TO § 2-1246 OF THIS TITLE, THE COMMITTEE SHALL**
23 **SUBMIT A REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1**
24 **EACH YEAR.**

25 **(2) THE REPORT SHALL INCLUDE:**

26 **(I) A DESCRIPTION OF THE WORK OF THE COMMITTEE; AND**

27 **(II) ANY RECOMMENDATIONS OF THE COMMITTEE.**

28 10-509.

29 **(a) This section does not:**

30 **(1) require any change in the form or content of the Journal of the**
31 **Senate of Maryland or Journal of the House of Delegates of Maryland; or**

1 (2) *limit the matters that a public body may include in its minutes.*

2 (b) (1) [As] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS
3 SUBSECTION, AS soon as practicable after a public body meets, it shall have written
4 minutes of its session prepared.

5 (2) A PUBLIC BODY NEED NOT PREPARE WRITTEN MINUTES OF AN
6 OPEN SESSION:

7 (1) IF LIVE AND ARCHIVED VIDEO OR AUDIO STREAMING OF
8 THE OPEN SESSION IS AVAILABLE; OR

9 (II) IF THE PUBLIC BODY VOTES ON LEGISLATION AND THE
10 INDIVIDUAL VOTES TAKEN BY EACH MEMBER OF THE PUBLIC BODY WHO
11 PARTICIPATES IN THE VOTING ARE POSTED PROMPTLY ON THE INTERNET.

12 (3) THE INFORMATION SPECIFIED UNDER PARAGRAPH (2) OF
13 THIS SUBSECTION SHALL BE DEEMED THE MINUTES OF THE OPEN SESSION.

14 (c) (1) *The WRITTEN minutes shall reflect:*

15 (i) *each item that the public body considered;*

16 (ii) *the action that the public body took on each item; and*

17 (iii) *each vote that was recorded.*

18 (2) *If a public body meets in closed session, the WRITTEN minutes for*
19 *its next open session shall include:*

20 (i) a statement of the time, place, and purpose of the closed
21 session;

22 (ii) a record of the vote of each member as to closing the session;

23 (iii) a citation of the authority under this subtitle for closing the
24 session; and

25 (iv) a listing of the topics of discussion, persons present, and each
26 action taken during the session.

27 (3) (i) *A session may be tape recorded by a public body.*

1 (ii) Except as otherwise provided in paragraph (4) of this
 2 subsection, the WRITTEN minutes and any tape recording of a closed session shall be
 3 sealed and may not be open to public inspection.

4 (4) The WRITTEN minutes and any tape recording shall be unsealed
 5 and open to inspection as follows:

6 (i) for a meeting closed under § 10-508(a)(5) of this subtitle,
 7 when the public body invests the funds;

8 (ii) for a meeting closed under § 10-508(a)(6) of this subtitle,
 9 when the public securities being discussed have been marketed; or

10 (iii) on request of a person or on the public body's own initiative,
 11 if a majority of the members of the public body present and voting vote in favor of
 12 unsealing the WRITTEN minutes and any tape recording.

13 (d) Except as provided in subsection (c) of this section, WRITTEN minutes of a
 14 public body are public records and shall be open to public inspection during ordinary
 15 business hours.

16 (e) A public body shall keep a copy of the WRITTEN minutes of each session
 17 and any tape recording made under [subsection] SUBSECTIONS (B)(2) OR (c)(3)(i) of
 18 this section for at least 1 year after the date of the session.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 ~~October~~ June 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.