

HOUSE BILL 331

P3

3lr1112

By: **Delegates Morhaim, Barve, Bromwell, Costa, Hubbard, James, Kach, K. Kelly, Kipke, Lafferty, McMillan, W. Miller, Mizeur, O'Donnell, Pena-Melnyk, Smigiel, Stein, Tarrant, and V. Turner**

Introduced and read first time: January 24, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Open Meetings Act – Violations and Penalties**

3 FOR the purpose of requiring that a certain public body take a certain action if the
4 State Open Meetings Law Compliance Board determines that a certain violation
5 of the Open Meetings Act has occurred; repealing a certain prohibition on the
6 introduction of certain opinions issued by the Board as evidence in certain
7 proceedings; altering certain penalties for certain violations; and generally
8 relating to the Open Meetings Act.

9 BY repealing and reenacting, with amendments,
10 Article – State Government
11 Section 10–502.5(i) and 10–511
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2012 Supplement)

14 BY repealing
15 Article – State Government
16 Section 10–502.5(j)
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 10–510(b)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Government

10–502.5.

(i) (1) The opinions of the Board are advisory only.

(2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** Board may not require or compel any specific actions by a public body.

(3) (I) IF THE BOARD DETERMINES THAT A VIOLATION OF THIS SUBTITLE HAS OCCURRED:

1. AT THE NEXT OPEN MEETING OF THE PUBLIC BODY AFTER THE BOARD HAS ISSUED ITS OPINION, A MEMBER OF THE PUBLIC BODY SHALL ANNOUNCE THE VIOLATION AND ORALLY SUMMARIZE THE OPINION; AND

2. A MAJORITY OF THE MEMBERS OF THE PUBLIC BODY SHALL SIGN A COPY OF THE OPINION AND RETURN THE SIGNED COPY TO THE BOARD.

(II) THE PUBLIC BODY MAY NOT DESIGNATE ITS COUNSEL OR ANOTHER REPRESENTATIVE TO PROVIDE THE ANNOUNCEMENT AND SUMMARY.

[(j) A written opinion issued by the Board may not be introduced as evidence in a proceeding conducted in accordance with § 10–510 of this subtitle.]

10–510.

(b) (1) If a public body fails to comply with § 10–505, § 10–506, § 10–507, § 10–508, or § 10–509(c) of this subtitle any person may file with a circuit court that has venue a petition that asks the court to:

(i) determine the applicability of those sections;

(ii) require the public body to comply with those sections; or

(iii) void the action of the public body.

(2) If a violation of § 10–506, § 10–508, or § 10–509(c) of this subtitle is alleged, the person shall file the petition within 45 days after the date of the alleged violation.

1 (3) If a violation of § 10–505 or § 10–507 of this subtitle is alleged, the
2 person shall file the petition within 45 days after the public body includes in the
3 minutes of an open session the information specified in § 10–509(c)(2) of this subtitle.

4 (4) If a written complaint is filed with the Board in accordance with §
5 10–502.5 of this subtitle, the time between the filing of the complaint and the mailing
6 of the written opinion to the complainant and the affected public body under §
7 10–502.5(g) of this subtitle may not be included in determining if a claim against a
8 public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of
9 this subsection.

10 10–511.

11 [A member of] **IN ACCORDANCE WITH § 10–510 OF THIS SUBTITLE**, a public
12 body [who] **THAT** willfully [participates in a meeting of the body] **MEETS** with
13 knowledge that the meeting is being held in violation of the provisions of this subtitle
14 is subject to a civil penalty not to exceed [~~\$100~~] **\$1,000 FOR THE FIRST VIOLATION**
15 **AND \$10,000 FOR EACH SUBSEQUENT VIOLATION THAT OCCURS WITHIN 3**
16 **YEARS OF THE FIRST VIOLATION.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2013.