

HOUSE BILL 823

P3

6lr3439
CF SB 598

By: Delegates Morales, Angel, Barkley, Barron, Barve, Carr, Cullison, Dumais, Fraser-Hidalgo, Frick, Gutierrez, Hayes, Hixson, Kelly, Korman, Kramer, Luedtke, A. Miller, Moon, Platt, Reznik, S. Robinson, Smith, ~~and Waldstreicher~~ Waldstreicher, Hammen, Hill, McMillan, Morhaim, Oaks, Pena-Melnyk, Sample-Hughes, West, and K. Young

Introduced and read first time: February 8, 2016

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2016

CHAPTER _____

1 AN ACT concerning

2 **General Provisions – Open Meetings Act – ~~Enforcement~~ Annual Reporting**
3 **Requirement, Web Site Postings, and Training**

4 FOR the purpose of ~~authorizing~~ altering the annual reporting requirement of the State
5 Open Meetings Law Compliance Board, under certain circumstances, to issue certain
6 orders and impose certain civil penalties not to exceed a certain amount; repealing
7 certain provisions of law rendered obsolete by this Act; expanding the scope of the
8 training requirements under the Open Meetings Act to include all employees,
9 officials, and members of a public body; requiring certain individuals to complete
10 certain training within certain periods of time; making conforming changes to
11 require that certain information on certain violations be reported; requiring the
12 Board to post certain information on a certain Web site; altering the scope of the
13 training requirements under the Open Meetings Act to require the designation of at
14 least a certain number of members with authority to close a meeting to receive the
15 training; requiring that certain designated individuals attend certain meetings or
16 that certain public bodies include a certain checklist in certain minutes; requiring
17 the Board to collaborate with certain entities to implement a process for reporting
18 the names of individuals who take a certain class and develop a certain list of
19 contacts; requiring the Board to report to certain committees of the General
20 Assembly on or before a certain date; defining a certain term; and generally relating

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.



1 to ~~enforcement~~ the annual reporting requirement, Web site postings, and training
2 under the Open Meetings Act.

3 ~~BY repealing~~

4 ~~Article – General Provisions~~

5 ~~Section 3–209 and 3–210~~

6 ~~Annotated Code of Maryland~~

7 ~~(2014 Volume and 2015 Supplement)~~

8 BY adding to

9 Article – General Provisions

10 Section 3–101(d–1)

11 Annotated Code of Maryland

12 (2014 Volume and 2015 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – General Provisions

15 Section ~~3–211 and 3–213~~ 3–204(d) and (e), 3–211, and 3–213

16 Annotated Code of Maryland

17 (2014 Volume and 2015 Supplement)

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

20 **Article – General Provisions**

21 ~~§ 3–209.~~

22 ~~The opinions of the Board are advisory only.]~~

23 ~~§ 3–210.~~

24 ~~Except as provided in § 3–211 of this subtitle, the Board may not require or compel~~
25 ~~any specific actions by a public body.]~~

26 3–101.

27 **(D–1) “CLASS ON THE OPEN MEETINGS LAW” MEANS:**

28 **(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN**
29 **MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE**
30 **UNIVERSITY OF MARYLAND’S INSTITUTE FOR GOVERNMENTAL SERVICE AND**
31 **RESEARCH; OR**

32 **(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW**
33 **OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND**

1 MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL
 2 GOVERNANCE.

3 3-204.

4 (d) The Board, in conjunction with the Office of the Attorney General and other
 5 interested organizations or persons, shall develop and conduct educational programs AND
 6 DISTRIBUTE EDUCATIONAL MATERIALS on the requirements of the open meetings law
 7 for the staffs and attorneys of:

8 (1) public bodies;

9 (2) the Maryland Municipal League; and

10 (3) the Maryland Association of Counties.

11 (e) (1) On or before October 1 of each year, the Board shall submit an annual
 12 report to the Governor and, subject to § 2-1246 of the State Government Article, the
 13 General Assembly.

14 (2) The report shall:

15 (i) describe the activities of the Board;

16 (ii) describe the opinions of the Board;

17 (iii) state the number and nature of complaints filed with the Board
 18 and discuss complaints that reasonable notice of a meeting was not given; [and]

19 (IV) IDENTIFY THE PROVISIONS OF THIS TITLE THAT THE BOARD
 20 HAS FOUND A PUBLIC BODY TO HAVE VIOLATED AND THE NUMBER OF TIMES EACH
 21 PROVISION HAS BEEN VIOLATED;

22 (V) IDENTIFY EACH PUBLIC BODY THAT THE BOARD HAS FOUND
 23 TO HAVE VIOLATED A PROVISION OF THIS TITLE; AND

24 [(iv)](VI) recommend any improvements to this title.

25 3-211.

26 (a) If the Board determines that a violation of this title has occurred:

27 ~~(1) THE BOARD MAY:~~

28 ~~(1) ISSUE AN ORDER THAT REQUIRES THE PUBLIC BODY TO~~
 29 ~~TAKE CORRECTIVE ACTION; AND~~

1 ~~(H) IMPOSE AN APPROPRIATE CIVIL PENALTY IN AN AMOUNT~~
 2 ~~NOT TO EXCEED \$500 FOR EACH VIOLATION; AND~~

3 ~~[(1)] (2) (H)~~ at the next open meeting of the public body after the Board
 4 has issued its opinion, a member of the public body shall announce the violation and orally
 5 summarize the opinion; and

6 ~~[(2)] (H)~~ a majority of the members of the public body shall sign a copy of
 7 the opinion and return the signed copy to the Board.

8 (b) The public body may not designate its counsel or another representative to
 9 provide the announcement and summary ~~REQUIRED UNDER SUBSECTION (A)(2) OF~~
 10 ~~THIS SECTION.~~

11 (c) Compliance by a public body or a member of a public body with subsections
 12 (a) and (b) of this section:

13 (1) is not an admission to a violation of this title by the public body; and

14 (2) may not be used as evidence in a proceeding conducted in accordance
 15 with § 3-401 of this title.

16 **(D) IF THE BOARD DETERMINES THAT A PUBLIC BODY HAS VIOLATED A**
 17 **PROVISION OF THIS TITLE, THE BOARD SHALL POST ON THE MARYLAND OPEN**
 18 **MEETINGS ACT PAGE OF THE OFFICE OF THE ATTORNEY GENERAL WEB SITE THE**
 19 **NAME OF THE PUBLIC BODY AND THE OPINION THAT DESCRIBES THE VIOLATION.**

20 3-213.

21 (a) Each ~~public body shall~~

22 ~~(1) designate at least one individual who is an employee, an officer, or a~~
 23 ~~member of the public body~~ **WITH THE AUTHORITY TO CLOSE A MEETING** ~~to receive~~
 24 ~~training on the requirements of the open meetings law; and~~

25 ~~(2) forward a list of the individuals designated under item (1) of this~~
 26 ~~subsection to the Board.~~

27 (b) **(1)** Within 90 days after being designated under subsection ~~(a)(1)~~ **(A)** of
 28 this section, an individual ~~shall complete~~ **A CLASS ON THE OPEN MEETINGS LAW.**

29 ~~(1) an online class on the requirements of the open meetings law offered by~~
 30 ~~the Office of the Attorney General and the University of Maryland's Institute for~~
 31 ~~Governmental Service and Research; or~~

~~(2) a class on the requirements of the open meetings law offered by the Maryland Association of Counties or the Maryland Municipal League through the Academy for Excellence in Local Governance.~~

~~(B) AN INDIVIDUAL SHALL COMPLETE THE TRAINING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 90 DAYS AFTER THE INDIVIDUAL BECOMES AN EMPLOYEE, AN OFFICIAL, OR A MEMBER OF A PUBLIC BODY.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That an individual who is an employee, an official, or a member of a public body on the effective date of this Act shall comply with § 3-213(a) of the General Provisions Article, as enacted by Section 1 of this Act, on or before September 30, 2017.~~

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ONE INDIVIDUAL DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PRESENT AT EACH OPEN MEETING OF THE PUBLIC BODY.

(II) IF AN INDIVIDUAL DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION CANNOT BE PRESENT AT AN OPEN MEETING OF THE PUBLIC BODY, THE PUBLIC BODY SHALL COMPLETE THE COMPLIANCE CHECKLIST FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT DEVELOPED BY THE OFFICE OF THE ATTORNEY GENERAL AND INCLUDE THE COMPLETED CHECKLIST IN THE MINUTES FOR THE MEETING.

SECTION 2. AND BE IT FURTHER ENACTED, That the Open Meetings Compliance Board shall:

(1) collaborate with the University of Maryland's Institute for Governmental Service and Research, the Maryland Association of Counties, and the Maryland Municipal League to:

(i) implement a process for reporting to the Board the names of individuals who complete a class on the open meetings law as required by § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body the individual is affiliated with; and

(ii) develop a list of contacts for public bodies to whom the Board may send educational materials, the Compliance Checklist for Meetings Subject to the Maryland Open Meetings Act, the Board's annual report, and any other information the Board determines would be useful to a public body in assisting compliance with the Open Meetings Act; and

(2) on or before December 1, 2016, report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on the results of the collaboration required under item (1) of this section.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~October~~ July 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.