
By: **Senator Dyson**

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Access - Board of Review - Creation**

3 FOR the purpose of expanding the scope of the State Open Meetings Law Compliance
4 Board; renaming the Board as the State Open Meetings Law and Public
5 Information Compliance Board; vesting the Board with certain powers of review
6 for certain complaints relating to public information; requiring the Board to
7 issue responses regarding certain complaints within certain times; authorizing
8 the Board to issue decisions on certain complaints under certain conditions;
9 authorizing the Board to schedule and hold certain conferences under certain
10 conditions; authorizing the Board to issue certain written opinions at certain
11 times; and generally relating to the State Open Meetings Law and Public
12 Information Compliance Board.

13 BY repealing and reenacting, with amendments,
14 Article - State Government
15 Section 10-502.1 and 10-502.4
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 BY adding to
19 Article - State Government
20 Section 10-502.7
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1997 Supplement)

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

25 **Article - State Government**

26 10-502.1.

27 There is a State Open Meetings Law AND PUBLIC INFORMATION Compliance
28 Board.

1 10-502.4.

2 (a) The Board shall receive, review, and resolve complaints from any person
3 alleging a violation of the provisions of this subtitle and issue a written opinion as to
4 whether a violation has occurred.

5 (b) The Board shall receive and review any complaint alleging a prospective
6 violation of the provisions of this subtitle as provided under § 10-502.6 of this
7 subtitle.

8 (c) The Board shall study ongoing compliance with the provisions of this
9 subtitle by public bodies and make recommendations to the General Assembly for
10 improvements in this subtitle.

11 (d) On or before January 1, 1992, the Board, in conjunction with the Office of
12 the Attorney General and other interested organizations or persons, shall develop and
13 conduct educational programs on the requirements of the open meetings law for the
14 staffs and attorneys of:

- 15 (1) public bodies;
- 16 (2) the Maryland Municipal League; and
- 17 (3) the Maryland Association of Counties.

18 (E) THE BOARD SHALL RECEIVE, REVIEW, AND RESOLVE COMPLAINTS FROM
19 ANY PERSON RELATING TO ACCESS OF PUBLIC INFORMATION FROM A UNIT OF
20 STATE GOVERNMENT, OR CUSTODIAN OF RECORDS AS PROVIDED IN SUBTITLE 6 OF
21 THIS TITLE, AND ISSUE A WRITTEN OPINION AS TO WHETHER A VIOLATION HAS
22 OCCURRED.

23 [(e)] (F) (1) On or before July 1 of each year, the Board shall submit an
24 annual report to the Governor and the General Assembly.

25 (2) The report shall include a description of:

- 26 (i) the activities of the Board;
- 27 (ii) the opinions of the Board in any cases brought before it;
- 28 (iii) the number and nature of complaints filed with the Board,
29 including a discussion of complaints concerning the reasonableness of the notice
30 provided for meetings;
- 31 (iv) the impact on State and local governments of the provisions of §
32 10-502(h)(2) of this article, including a discussion of how the affected entities have
33 adhered to the requirements of this subtitle; and

34 (v) any recommendations for improvements to the provisions of this
35 subtitle.

1 10-502.7.

2 (A) A PERSON MAY FILE A WRITTEN COMPLAINT WITH THE BOARD SEEKING A
3 WRITTEN OPINION FROM THE BOARD ON THE APPLICATION OF THE PROVISIONS OF
4 SUBTITLE 6 OF THIS TITLE TO ACCESS TO PUBLIC INFORMATION.

5 (B) THE COMPLAINT SHALL:

6 (1) BE SIGNED BY THE PERSON MAKING THE COMPLAINT;

7 (2) IDENTIFY THE STATE AGENCY OR CUSTODIAN OF RECORDS FROM
8 WHICH THE DOCUMENTS WERE REQUESTED;

9 (3) SPECIFY THE DOCUMENTS WHICH WERE REQUESTED; AND

10 (4) STATE:

11 (I) THE REASON GIVEN FOR WITHHOLDING THE DOCUMENTS;

12 (II) THE DATE OF THE REQUEST; AND

13 (III) THE CIRCUMSTANCES OF THE REQUEST.

14 (C) (1) ON RECEIPT OF THE WRITTEN COMPLAINT, THE BOARD SHALL
15 PROMPTLY SEND THE COMPLAINT TO THE STATE AGENCY OR CUSTODIAN OF
16 RECORDS IDENTIFIED IN THE COMPLAINT AND REQUEST THAT A RESPONSE TO THE
17 COMPLAINT, AND COPIES OF THE DOCUMENTS IN QUESTION, BE SENT TO THE
18 BOARD.

19 (2) THE STATE AGENCY OR CUSTODIAN OF RECORDS SHALL FILE A
20 WRITTEN RESPONSE TO THE COMPLAINT WITHIN 30 DAYS OF ITS RECEIPT OF THE
21 COMPLAINT.

22 (3) IF AFTER 45 DAYS, THE STATE AGENCY OR CUSTODIAN OF RECORDS
23 HAS NOT FILED A WRITTEN RESPONSE THE BOARD SHALL DECIDE THE CASE ON THE
24 FACTS BEFORE IT.

25 (D) THE BOARD SHALL:

26 (1) REVIEW THE COMPLAINT AND ANY RESPONSE;

27 (2) CONFIDENTIALLY REVIEW THE DOCUMENTS OR COPIES OF THE
28 DOCUMENTS; AND

29 (3) IF THE INFORMATION IN THE COMPLAINT, RESPONSE, AND
30 DOCUMENTS ARE SUFFICIENT TO PERMIT A DETERMINATION, ISSUE A WRITTEN
31 OPINION AS TO WHETHER A VIOLATION OF THE PROVISIONS OF THIS SUBTITLE HAS
32 OCCURRED OR WILL OCCUR NOT LATER THAN 30 DAYS AFTER RECEIVING THE
33 RESPONSE.

1 (E) (1) IF THE BOARD IS UNABLE TO REACH A DETERMINATION BASED ON
2 THE WRITTEN SUBMISSIONS BEFORE IT, THE BOARD MAY SCHEDULE AN INFORMAL
3 CONFERENCE TO HEAR FROM THE COMPLAINANT, THE STATE AGENCY OR
4 CUSTODIAN OF RECORDS, OR ANY OTHER PERSON WITH RELEVANT INFORMATION
5 ABOUT THE SUBJECT OF THE COMPLAINT.

6 (2) AN INFORMAL CONFERENCE SCHEDULED BY THE BOARD IS NOT A
7 CONTESTED CASE WITHIN THE MEANING OF § 10-202 (D) OF THIS TITLE.

8 (3) THE BOARD SHALL ISSUE A WRITTEN OPINION NOT LATER THAN 30
9 DAYS FOLLOWING THE INFORMAL CONFERENCE.

10 (F) (1) IF THE BOARD IS UNABLE TO RENDER AN OPINION ON A COMPLAINT
11 WITHIN THE TIME PERIODS SPECIFIED IN SUBSECTION (D) OR (E) OF THIS SECTION,
12 THE BOARD SHALL:

13 (I) STATE IN WRITING THE REASON FOR ITS INABILITY; AND

14 (II) ISSUE AN OPINION AS SOON AS POSSIBLE BUT NOT LATER
15 THAN 90 DAYS AFTER THE FILING OF THE COMPLAINT.

16 (2) AN OPINION OF THE BOARD MAY STATE THAT THE BOARD IS UNABLE
17 TO RESOLVE THE COMPLAINT.

18 (G) THE BOARD SHALL SEND A COPY OF THE WRITTEN OPINION TO THE
19 COMPLAINANT AND TO THE AFFECTED STATE AGENCY OR CUSTODIAN OF RECORDS.

20 (H) (1) ON A PERIODIC BASIS, THE BOARD MAY SEND TO ANY STATE AGENCY
21 OR CUSTODIAN OF RECORDS IN THE STATE ANY WRITTEN OPINION THAT WILL
22 PROVIDE THE STATE AGENCY OR CUSTODIAN OF RECORDS WITH GUIDANCE ON
23 COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

24 (2) ON REQUEST, A COPY OF A WRITTEN OPINION SHALL BE PROVIDED
25 TO ANY PERSON.

26 (I) (1) THE OPINIONS OF THE BOARD ARE ADVISORY ONLY.

27 (2) THE BOARD MAY NOT REQUIRE OR COMPEL ANY SPECIFIC ACTIONS
28 BY A STATE AGENCY OR CUSTODIAN OF RECORDS.

29 (J) A WRITTEN OPINION ISSUED BY THE BOARD MAY NOT BE INTRODUCED AS
30 EVIDENCE IN A PROCEEDING CONDUCTED IN ACCORDANCE WITH § 10-510 OF THIS
31 SUBTITLE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1998.