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By: **Senator Hollinger**

Introduced and read first time: January 21, 2004

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

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  
25 Section 10-506(d), 10-508(d)(5), and 10-509(e)  
26 Annotated Code of Maryland  
27 (1999 Replacement Volume and 2003 Supplement)

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

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**Article - State Government**

2 10-502.

- 3 (h) (1) "Public body" means an entity that:
- 4 (i) consists of at least 2 individuals; and
- 5 (ii) is created by:
- 6 1. the Maryland Constitution;
- 7 2. a State statute;
- 8 3. a county charter;
- 9 4. an ordinance;
- 10 5. a rule, resolution, or bylaw;
- 11 6. an executive order of the Governor; or
- 12 7. an executive order of the chief executive authority of a
- 13 political subdivision of the State.
- 14 (2) "Public body" includes:
- 15 (i) any multimember board, commission, or committee appointed
- 16 by the Governor or the chief executive authority of a political subdivision of the State,
- 17 OR APPOINTED BY AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE
- 18 GOVERNOR OR CHIEF EXECUTIVE AUTHORITY OF THE POLITICAL SUBDIVISION, if
- 19 the entity includes in its membership at least 2 individuals not employed by the State
- 20 or [a] THE political subdivision [of the State]; and
- 21 (ii) The Maryland School for the Blind.
- 22 (3) "Public body" does not include:
- 23 (i) any single member entity;
- 24 (ii) any judicial nominating commission;
- 25 (iii) any grand jury;
- 26 (iv) any petit jury;
- 27 (v) the Appalachian States Low Level Radioactive Waste
- 28 Commission established in § 7-302 of the Environment Article;
- 29 (vi) except when a court is exercising rulemaking power, any court
- 30 established in accordance with Article IV of the Maryland Constitution;

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

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

6 (ix) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION,  
 7 A SUBCOMMITTEE OF A PUBLIC BODY AS DEFINED UNDER PARAGRAPH (2)(I) OF THIS  
 8 SUBSECTION;

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

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

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

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

18 10-502.5.

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

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

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

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

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

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

31 10-506.

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

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

1 10-508.

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

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

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

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

11 10-509.

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

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

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

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

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