

HOUSE BILL 1242

P1

71r3036

By: **Delegate Weldon**

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 5, 2007

Committee Report: Favorable

House action: Adopted

Read second time: March 20, 2007

CHAPTER _____

1 AN ACT concerning

2 **Open Meetings Act**

3 FOR the purpose of repealing a restriction on the number of consecutive terms that a
4 member of the State Open Meetings Compliance Board may serve; providing for
5 a process for handling a certain complaint filed with the Compliance Board
6 when the public body that is the subject of the complaint no longer exists;
7 altering the manner in which certain notice of a certain meeting may be given;
8 altering a certain definition; and generally relating to the Open Meetings Act.

9 BY repealing and reenacting, with amendments,
10 Article – State Government
11 Section 10–502(c), 10–502.2, 10–502.5, and 10–506
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2006 Supplement)

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

16 **Article – State Government**

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 10-502.

2 (c) "Advisory function" means the study of a matter of public concern or the
3 making of recommendations on the matter, under a delegation of responsibility by:

4 (1) law;

5 (2) the Governor **OR AN OFFICIAL WHO IS SUBJECT TO THE POLICY**
6 **DIRECTION OF THE GOVERNOR;**

7 (3) the chief executive officer of a political subdivision of the State **OR**
8 **AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE CHIEF**
9 **EXECUTIVE OFFICER;** or

10 (4) formal action by or for a public body that exercises an executive,
11 judicial, legislative, quasi-judicial, or quasi-legislative function.

12 10-502.2.

13 (a) (1) The Board consists of 3 members, at least one of whom shall be an
14 attorney admitted to the Maryland Bar, appointed by the Governor with the advice
15 and consent of the Senate.

16 (2) From among the members of the Board, the Governor shall appoint
17 a chairman.

18 (b) (1) The term of a member is 3 years.

19 (2) The terms of members are staggered as required by the terms
20 provided for members of the Board on July 1, 1991.

21 (3) At the end of a term, a member continues to serve until a successor
22 is appointed.

23 (4) A member who is appointed after a term has begun serves only for
24 the rest of the term and until a successor is appointed.

25 [(5) A member may not serve for more than 2 consecutive 3-year
26 terms.]

27 10-502.5.

1 (a) Any person may file a written complaint with the Board seeking a
2 written opinion from the Board on the application of the provisions of this subtitle to
3 the action of a public body covered by this subtitle.

4 (b) The complaint shall:

5 (1) be signed by the person making the complaint; and

6 (2) identify the public body, specify the action of the public body, the
7 date of the action, and the circumstances of the action.

8 (c) (1) On receipt of the written complaint, **AND EXCEPT AS PROVIDED**
9 **IN PARAGRAPH (3) OF THIS SUBSECTION**, the Board shall promptly send the
10 complaint to the public body identified in the complaint and request that a response to
11 the complaint be sent to the Board.

12 (2) (i) The public body shall file a written response to the
13 complaint within 30 days of its receipt of the complaint.

14 (ii) On request of the Board, the public body shall include with
15 its written response to the complaint a copy of:

- 16 1. a notice provided under § 10-506 of this subtitle;
- 17 2. a written statement made under § 10-508(d)(2)(ii) of
18 this subtitle; and
- 19 3. minutes and any tape recording made by the public
20 body under § 10-509 of this subtitle.

21 (iii) The Board shall maintain the confidentiality of minutes and
22 any tape recording submitted by a public body that are sealed in accordance with §
23 10-509(c)(3)(ii) of this subtitle.

24 (3) (I) **IF THE PUBLIC BODY IDENTIFIED IN THE COMPLAINT**
25 **NO LONGER EXISTS, THE BOARD SHALL PROMPTLY SEND THE COMPLAINT TO**
26 **THE OFFICIAL OR ENTITY THAT APPOINTED THE PUBLIC BODY.**

27 (II) **THE OFFICIAL OR ENTITY THAT APPOINTED THE**
28 **PUBLIC BODY SHALL, TO THE EXTENT FEASIBLE, COMPLY WITH THE**
29 **REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.**

1 (4) If after 45 days, [the public body has not filed] a written response
2 **IS NOT RECEIVED**, the Board shall decide the case on the facts before it.

3 (d) The Board shall:

4 (1) review the complaint and any response; and

5 (2) if the information in the complaint and response is sufficient to
6 permit a determination, issue a written opinion as to whether a violation of the
7 provisions of this subtitle has occurred or will occur not later than 30 days after
8 receiving the response.

9 (e) (1) If the Board is unable to reach a determination based on the
10 written submissions before it, the Board may schedule an informal conference to hear
11 from the complainant, the public body, or any other person with relevant information
12 about the subject of the complaint.

13 (2) An informal conference scheduled by the Board is not a “contested
14 case” within the meaning of § 10–202(d) of this title.

15 (3) The Board shall issue a written opinion not later than 30 days
16 following the informal conference.

17 (f) (1) If the Board is unable to render an opinion on a complaint within
18 the time periods specified in subsection (d) or (e) of this section, the Board shall:

19 (i) state in writing the reason for its inability; and

20 (ii) issue an opinion as soon as possible but not later than 90
21 days after the filing of the complaint.

22 (2) An opinion of the Board may state that the Board is unable to
23 resolve the complaint.

24 (g) The Board shall send a copy of the written opinion to the complainant
25 and to the affected public body.

26 (h) (1) On a periodic basis, the Board may send to any public body in the
27 State any written opinion that will provide the public body with guidance on
28 compliance with the provisions of this subtitle.

1 (2) On request, a copy of a written opinion shall be provided to any
2 person.

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

4 (2) The Board may not require or compel any specific actions by a
5 public body.

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

8 10-506.

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

11 (b) Whenever reasonable, a notice under this section shall:

12 (1) be in writing;

13 (2) include the date, time, and place of the session; and

14 (3) if appropriate, include a statement that a part or all of a meeting
15 may be conducted in closed session.

16 (c) A public body may give the notice under this section as follows:

17 (1) if the public body is a unit of the State government, by publication
18 in the Maryland Register;

19 (2) by delivery to representatives of the news media who regularly
20 report on sessions of the public body or the activities of the government of which the
21 public body is a part;

22 (3) if the public body previously has given public notice that this
23 method will be used[,];

24 (I) by posting or depositing the notice at a convenient public
25 location at or near the place of the session; or

1 **(II) BY POSTING THE NOTICE ON AN INTERNET WEBSITE**
2 **ORDINARILY USED BY THE PUBLIC BODY TO PROVIDE INFORMATION TO THE**
3 **PUBLIC; OR**

4 (4) by any other reasonable method.

5 (d) A public body shall keep a copy of a notice provided under this section for
6 at least 1 year after the date of the session.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.