

CHAPTER 643

(House Bill 1242)

AN ACT concerning

Open Meetings Act

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

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

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

Article – State Government

10–502.

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

- (1) law;
- (2) the Governor **OR AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE GOVERNOR;**
- (3) the chief executive officer of a political subdivision of the State **OR AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE CHIEF EXECUTIVE OFFICER;** or

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

~~10-502.2.~~

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

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

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

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

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

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

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

10-502.5.

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

(b) The complaint shall:

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

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

(c) (1) On receipt of the written complaint, **AND EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION**, the Board shall promptly send the

complaint to the public body identified in the complaint and request that a response to the complaint be sent to the Board.

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

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

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

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

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

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

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

(d) The Board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

10–506.

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

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

(1) be in writing;

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

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

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

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

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

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

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

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

(4) by any other reasonable method.

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

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

Approved by the Governor, May 17, 2007.