

SENATE BILL 826

P3

3lr2631
CF HB 331

By: **Senators Kittleman and Robey**

Introduced and read first time: February 1, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 2013

CHAPTER _____

1 AN ACT concerning

2 **Open Meetings Act – Violations and Penalties**

3 FOR the purpose of requiring that a certain public body take a certain action if the
4 State Open Meetings Law Compliance Board determines that a certain violation
5 of the Open Meetings Act has occurred; providing that compliance with certain
6 provisions of this Act is not an admission to a certain violation and may not be
7 used as evidence in a certain proceeding; repealing a certain prohibition on the
8 introduction of certain opinions issued by the Board as evidence in certain
9 proceedings; altering certain penalties for certain violations; requiring a court to
10 consider certain factors when determining the amount of a certain fine; and
11 generally relating to the Open Meetings Act.

12 BY repealing and reenacting, with amendments,
13 Article – State Government
14 Section 10–502.5(i) and 10–511
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 BY repealing
18 Article – State Government
19 Section 10–502.5(j)
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, without amendments,

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 Article – State Government
 2 Section 10–510(b)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2012 Supplement)

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

7 **Article – State Government**

8 10–502.5.

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

10 (2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
 11 **SUBSECTION, THE** Board may not require or compel any specific actions by a public
 12 body.

13 **(3) (I) IF THE BOARD DETERMINES THAT A VIOLATION OF THIS**
 14 **SUBTITLE HAS OCCURRED:**

15 **1. AT THE NEXT OPEN MEETING OF THE PUBLIC**
 16 **BODY AFTER THE BOARD HAS ISSUED ITS OPINION, A MEMBER OF THE PUBLIC**
 17 **BODY SHALL ANNOUNCE THE VIOLATION AND ORALLY SUMMARIZE THE**
 18 **OPINION; AND**

19 **2. A MAJORITY OF THE MEMBERS OF THE PUBLIC**
 20 **BODY SHALL SIGN A COPY OF THE OPINION AND RETURN THE SIGNED COPY TO**
 21 **THE BOARD.**

22 **(II) THE PUBLIC BODY MAY NOT DESIGNATE ITS COUNSEL**
 23 **OR ANOTHER REPRESENTATIVE TO PROVIDE THE ANNOUNCEMENT AND**
 24 **SUMMARY.**

25 **(III) COMPLIANCE BY A PUBLIC BODY OR A MEMBER OF A**
 26 **PUBLIC BODY WITH SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH:**

27 **1. IS NOT AN ADMISSION TO A VIOLATION OF A**
 28 **PROVISION OF THIS SUBTITLE BY THE PUBLIC BODY; AND**

29 **2. MAY NOT BE USED AS EVIDENCE IN A**
 30 **PROCEEDING CONDUCTED IN ACCORDANCE WITH § 10–510 OF THIS SUBTITLE.**

31 [(j) A written opinion issued by the Board may not be introduced as evidence
 32 in a proceeding conducted in accordance with § 10–510 of this subtitle.]

1 10-510.

2 (b) (1) If a public body fails to comply with § 10-505, § 10-506, § 10-507,
3 § 10-508, or § 10-509(c) of this subtitle any person may file with a circuit court that
4 has venue a petition that asks the court to:

5 (i) determine the applicability of those sections;

6 (ii) require the public body to comply with those sections; or

7 (iii) void the action of the public body.

8 (2) If a violation of § 10-506, § 10-508, or § 10-509(c) of this subtitle is
9 alleged, the person shall file the petition within 45 days after the date of the alleged
10 violation.

11 (3) If a violation of § 10-505 or § 10-507 of this subtitle is alleged, the
12 person shall file the petition within 45 days after the public body includes in the
13 minutes of an open session the information specified in § 10-509(c)(2) of this subtitle.

14 (4) If a written complaint is filed with the Board in accordance with §
15 10-502.5 of this subtitle, the time between the filing of the complaint and the mailing
16 of the written opinion to the complainant and the affected public body under §
17 10-502.5(g) of this subtitle may not be included in determining if a claim against a
18 public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of
19 this subsection.

20 10-511.

21 **(A) [A member of] IN ACCORDANCE WITH § 10-510 OF THIS SUBTITLE, a**
22 **public body [who] THAT willfully [participates in a meeting of the body] MEETS with**
23 **knowledge that the meeting is being held in violation of the provisions of this subtitle**
24 **is subject to a civil penalty not to exceed [\$100] ~~\$1,000~~:**

25 **(1) \$250 FOR THE FIRST VIOLATION; AND ~~\$10,000~~**

26 **(2) \$1,000 FOR EACH SUBSEQUENT VIOLATION THAT OCCURS**
27 **WITHIN 3 YEARS ~~OR~~ AFTER THE FIRST VIOLATION.**

28 **(B) WHEN DETERMINING THE AMOUNT OF A FINE UNDER SUBSECTION**
29 **(A) OF THIS SECTION, THE COURT SHALL CONSIDER THE FINANCIAL RESOURCES**
30 **AVAILABLE TO THE PUBLIC BODY AND THE ABILITY OF THE PUBLIC BODY TO**
31 **PAY THE FINE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.