

**LAWRENCE J. HOGAN, JR.**  
*Governor*

**BOYD K. RUTHERFORD**  
*Lt. Governor*



**LYNN MARSHALL, ESQ.**  
**CHAIR**

**JACOB ALTSHULER, ESQ.**  
**VACANT**

**STATE OF MARYLAND**  
**OPEN MEETINGS COMPLIANCE BOARD**

January 21, 2022

The Honorable Shane E. Pendergrass, Chair  
Health and Government Operations Committee  
House Office Building, Room 241  
6 Bladen Street  
Annapolis, Maryland 21401

Re: House Bill 246  
Position: Neither favorable nor unfavorable (informational only)

Dear Chair Pendergrass:

As Chair of the Open Meetings Compliance Board, I am writing to convey the Board's input on House Bill 246. Because we generally wish to maintain our neutrality as an independent board and to avoid the role of legislating, we take no position on the proposed changes. We do, however, share two concerns:

First, the legislation as drafted could create a conflict within the Act as to preparing and providing minutes to the public. The Act currently "permits a public body to take a reasonable amount of time to review draft minutes for accuracy and to approve the minutes." 2 *OMCB Opinions* 87, 88 (1999). "As a general rule," the Board has said that a public body should prepare minutes "on a cycle that parallels a public body's meetings, with the only lag time being that necessary for drafting and review." 6 *OMCB Opinions* 161, 162 (2009). Thus, "[p]ublic bodies that meet monthly generally comply with [the] requirement [to prepare minutes as soon as practicable] by adopting [the prior meeting's] minutes at each meeting." 8 *OMCB Opinions* 176, 177 (2013). Under the proposed legislation, however, a public body that does not post its minutes online would be required to provide, within two business days, an electronic copy of the minutes to a "requestor." If the request came immediately after a meeting, but before the minutes had been formally approved, it could be impossible for the public body to comply with the proposed new requirement, as the minutes may not be finalized for several more weeks.

Second, two business days may be an impracticably short amount of time in which to require public bodies to respond to requests for electronic copies of closing statements and minutes. We note that Maryland's public bodies vary greatly in size, staffing, and resources, and it may be difficult for some public bodies to provide requested materials in two business days. Moreover, requiring public bodies to produce closing statements and minutes in such a short period of time is likely to lead to an increase in complaints to the Compliance Board, with no appreciable benefit to the public.

Thank you for considering the input of the Compliance Board on this bill.

Sincerely,

*Lynn Marshall* /rs

Lynn Marshall, Esquire  
Chair, Open Meetings Compliance Board