

SENATE BILL 450

P3

7lr1636
CF HB 880

By: **Senator Manno**

Introduced and read first time: January 30, 2017

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Open Meetings Act – ~~Required Training for Members of Public Bodies~~ Annual**
3 **Reporting Requirement, Web Site Postings, and Training**

4 FOR the purpose of ~~repealing the requirement that a public body designate a certain~~
5 ~~individual to receive training on the Open Meetings Act and forward a certain list to~~
6 ~~the Open Meetings Compliance Board; requiring that certain individuals complete~~
7 ~~certain classes or submit a letter stating certain information to the Board within a~~
8 ~~certain period of time after becoming a member of a public body; requiring an~~
9 ~~individual who is a member of a public body on the effective date of this Act to comply~~
10 ~~with certain provisions of this Act on or before a certain date except under certain~~
11 ~~circumstances; and generally relating to required training for members of public~~
12 ~~bodies regarding~~ requiring the Board, in conjunction with the Office of the Attorney
13 General, to distribute certain educational materials to the staff and attorneys for
14 certain entities; adding the Maryland Association of Boards of Education to the
15 entities the Board, in conjunction with the Office of the Attorney General, is required
16 to develop and conduct certain educational programs for; altering the annual
17 reporting requirement of the State Open Meetings Law Compliance Board to require
18 that certain information on certain violations be reported; requiring the Board to
19 post certain information on a certain Web site; repealing a requirement that certain
20 public bodies forward a certain list to the Board; prohibiting a public body from
21 meeting in a closed session unless the public body designates at least a certain
22 number of members to receive the training; requiring that certain designated
23 individuals attend certain meetings or that certain public bodies include a certain
24 checklist in certain minutes; requiring the Board, the University of Maryland's
25 Institute for Governmental Service and Research, and the Academy for Excellence

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.



in Local Governance in the University of Maryland's School of Public Health to collaborate with certain entities to determine a certain cost-benefit analysis, develop a certain list of contacts, and report to certain committees of the General Assembly on or before a certain date; defining a certain term; and generally relating to the annual reporting requirement, Web site postings, and training under the Open Meetings Act.

BY adding to
Article – General Provisions
Section 3-101(d-1)
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – General Provisions
Section 3-204(d) and (e), 3-211, and 3-213
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

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

Article – General Provisions

3-101.

(D-1) “CLASS ON THE OPEN MEETINGS LAW” MEANS:

(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE UNIVERSITY OF MARYLAND’S INSTITUTE FOR GOVERNMENTAL SERVICE AND RESEARCH;

(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL GOVERNANCE; OR

(3) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION THROUGH THE BOARDSMANSHIP ACADEMY PROGRAM.

3-204.

(d) The Board, in conjunction with the Office of the Attorney General and other interested organizations or persons, shall develop and conduct educational programs AND

DISTRIBUTE EDUCATIONAL MATERIALS on the requirements of the open meetings law for the staffs and attorneys of:

(1) public bodies;

(2) the Maryland Municipal League; [and]

(3) the Maryland Association of Counties; AND

(4) THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION.

(e) (1) On or before October 1 of each year, the Board shall submit an annual report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

(2) The report shall:

(i) describe the activities of the Board;

(ii) describe the opinions of the Board;

(iii) state the number and nature of complaints filed with the Board and discuss complaints that reasonable notice of a meeting was not given; [and]

(IV) IDENTIFY THE PROVISIONS OF THIS TITLE THAT THE BOARD HAS FOUND A PUBLIC BODY TO HAVE VIOLATED AND THE NUMBER OF TIMES EACH PROVISION HAS BEEN VIOLATED;

(V) IDENTIFY EACH PUBLIC BODY THAT THE BOARD HAS FOUND TO HAVE VIOLATED A PROVISION OF THIS TITLE; AND

~~[(iv)](VI)~~ recommend any improvements to this title.

3-211.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

~~[(a)] (B)~~ If the Board determines that a violation of this title has occurred:

(1) at the next open meeting of the public body after the Board has issued its opinion, a member of the public body shall announce the violation and orally summarize the opinion; and

(2) a majority of the members of the public body shall sign a copy of the opinion and return the signed copy to the Board.

~~[(b)]~~ (C) The public body may not designate its counsel or another representative to provide the announcement and summary.

~~[(c)]~~ (D) Compliance by a public body or a member of a public body with subsections [(a) and (b)] (B) AND (C) of this section:

(1) is not an admission to a violation of this title by the public body; and

(2) may not be used as evidence in a proceeding conducted in accordance with § 3-401 of this title.

(E) IF THE BOARD DETERMINES THAT A PUBLIC BODY HAS VIOLATED A PROVISION OF THIS TITLE, THE BOARD SHALL POST ON THE MARYLAND OPEN MEETINGS ACT PAGE OF THE OFFICE OF THE ATTORNEY GENERAL WEB SITE THE NAME OF THE PUBLIC BODY AND THE OPINION THAT DESCRIBES THE VIOLATION.

3-213.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC BODY THAT IS:

(1) IN THE JUDICIAL BRANCH OF STATE GOVERNMENT; OR

(2) SUBJECT TO GOVERNANCE BY RULES ADOPTED BY THE COURT OF APPEALS.

~~[(a)]~~ (B) Each public body shall:

~~[(1)]~~ designate at least one individual who is an employee, an officer, or a member of the public body to receive training on the requirements of the open meetings law; ~~and~~

~~[(2)]~~ ~~forward a list of the individuals designated under item (1) of this subsection to the Board.~~

~~[(b)]~~ (C) Within 90 days after ~~being~~ designated under subsection ~~(a)(1)~~ (B) of this section, ~~BECOMING A MEMBER OF A PUBLIC BODY~~, an individual shall:

(1) complete:

~~[(1)] (I) an online class on the requirements of the open meetings law offered by the Office of the Attorney General and the University of Maryland's Institute for Governmental Service and Research; or~~

~~[(2)] (II) a class on the requirements of the open meetings law offered by the Maryland Association of Counties or the Maryland Municipal League through the Academy for Excellence in Local Governance; OR~~

~~(2) SUBMIT A LETTER TO THE BOARD STATING THAT THE INDIVIDUAL IS UNABLE OR UNWILLING TO COMPLETE A CLASS AS DESCRIBED IN ITEM (1) OF THIS SUBSECTION~~ COMPLETE A CLASS ON THE OPEN MEETINGS LAW.

~~SECTION 2. AND BE IT FURTHER ENACTED, That an individual who is a member of a public body on the effective date of this Act shall comply with § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before January 1, 2018, unless the individual completed a class as described in § 3-213 of the General Provisions Article, as enacted by Section 1 of this Act, on or before September 30, 2017.~~

(D) (1) THIS SUBSECTION APPLIES TO A PUBLIC BODY THAT MEETS IN A CLOSED SESSION ON OR AFTER OCTOBER 1, 2017.

(2) A PUBLIC BODY MAY NOT MEET IN A CLOSED SESSION UNLESS THE PUBLIC BODY HAS DESIGNATED AT LEAST ONE MEMBER OF THE PUBLIC BODY TO RECEIVE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ONE INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PRESENT AT EACH OPEN MEETING OF THE PUBLIC BODY.

(II) IF AN INDIVIDUAL DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION CANNOT BE PRESENT AT AN OPEN MEETING OF THE PUBLIC BODY, THE PUBLIC BODY SHALL COMPLETE THE COMPLIANCE CHECKLIST FOR MEETINGS SUBJECT TO THE MARYLAND OPEN MEETINGS ACT DEVELOPED BY THE OFFICE OF THE ATTORNEY GENERAL AND INCLUDE THE COMPLETED CHECKLIST IN THE MINUTES FOR THE MEETING.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2017, the Open Meetings Compliance Board, the University of Maryland's Institute for Governmental Service and Research, and the Academy for Excellence in Local Governance in the University of Maryland's School of Public Policy shall:

(1) collaborate with the Maryland Association of Counties, the Maryland Municipal League, the Maryland Association of Boards of Education, Maryland Common

Cause, and the Maryland–Delaware–District of Columbia Press Association to determine a cost–benefit analysis of:

(i) the costs to the State associated with tracking the names of individuals who complete a class on the open meetings law as required by § 3–213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated, including the cost to the University of Maryland’s Institute for Governmental Service and Research to collect information on individuals who take the online course offered by the Institute; and

(ii) the benefits to the State of tracking the names of individuals who complete a class on the open meetings law as required by § 3–213 of the General Provisions Article, as enacted by Section 1 of this Act, including the public body with which the individual is affiliated;

(2) collaborate with the Maryland Association of Counties, the Maryland Municipal League, and the Maryland Association of Boards of Education to develop a list of contacts for public bodies to which the Board may send educational materials, the Compliance Checklist for Meetings Subject to the Maryland Open Meetings Act, the Board’s annual report, and any other information the Board determines would be useful to a public body in assisting compliance with the Open Meetings Act; and

(3) report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on:

(i) the findings of the results of the cost–benefit analysis required by item (1) of this section and any resulting recommendations for legislation; and

(ii) the status of developing the information required under item (2) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.