

HOUSE BILL 484

P1, P3

3lr2177

By: **Delegate Bobo**

Introduced and read first time: January 30, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Open Meetings Act – Enforcement Authority**

3 FOR the purpose of authorizing the Attorney General or a local State’s Attorney, on
4 the initiative of the Attorney General or a local State’s Attorney or on receipt of
5 a verified complaint from a person that a public body has failed or may fail to
6 comply with certain provisions of the Open Meetings Act, to file a petition with
7 a certain court and ask for a certain remedy; and generally relating to
8 enforcement authority under the Open Meetings Act.

9 BY repealing and reenacting, with amendments,
10 Article – State Government
11 Section 10–510
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2012 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**

17 10–510.

18 (a) (1) This section does not apply to the action of:

19 (i) appropriating public funds;

20 (ii) levying a tax; or

21 (iii) providing for the issuance of bonds, notes, or other evidences
22 of public obligation.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) This section does not authorize a court to void an action of a public
2 body because of any violation of this subtitle by another public body.

3 (3) This section does not affect or prevent the use of any other
4 available remedies.

5 (b) (1) **(I)** If a public body fails to comply with § 10–505, § 10–506, §
6 10–507, § 10–508, or § 10–509(c) of this subtitle any person may file with a circuit
7 court that has venue a petition that asks the court to:

8 [(i)] 1. determine the applicability of those sections;

9 [(ii)] 2. require the public body to comply with those sections;
10 or

11 [(iii)] 3. void the action of the public body.

12 **(II) ON THE INITIATIVE OF THE ATTORNEY GENERAL OR A**
13 **LOCAL STATE’S ATTORNEY OR ON RECEIPT OF A VERIFIED COMPLAINT FROM A**
14 **PERSON THAT A PUBLIC BODY HAS FAILED OR MAY FAIL TO COMPLY WITH §**
15 **10–505, § 10–506, § 10–507, § 10–508, OR § 10–509(C) OF THIS SUBTITLE, THE**
16 **ATTORNEY GENERAL OR THE STATE’S ATTORNEY IN THE COUNTY IN WHICH**
17 **THE VIOLATION OCCURRED OR MAY OCCUR MAY FILE WITH THE CIRCUIT COURT**
18 **THAT HAS VENUE A PETITION THAT ASKS THE COURT FOR A REMEDY AS**
19 **DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

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

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

26 (4) If a written complaint is filed with the Board in accordance with §
27 10–502.5 of this subtitle, the time between the filing of the complaint and the mailing
28 of the written opinion to the complainant and the affected public body under §
29 10–502.5(g) of this subtitle may not be included in determining if a claim against a
30 public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of
31 this subsection.

32 (c) In an action under this section, it is presumed that the public body did
33 not violate any provision of this subtitle, and the complainant has the burden of
34 proving the violation.

35 (d) A court may:

1 (1) consolidate a proceeding under this section with another
2 proceeding under this section or an appeal from the action of the public body;

3 (2) issue an injunction;

4 (3) determine the applicability of this subtitle to the discussions or
5 decisions of public bodies;

6 (4) if the court finds that a public body willfully failed to comply with §
7 10–505, § 10–506, § 10–507, or § 10–509(c) of this subtitle and that no other remedy is
8 adequate, declare void the final action of the public body;

9 (5) as part of its judgment:

10 (i) assess against any party reasonable counsel fees and other
11 litigation expenses that the party who prevails in the action incurred; and

12 (ii) require a reasonable bond to ensure the payment of the
13 assessment; and

14 (6) grant any other appropriate relief.

15 (e) (1) A person may file a petition under this section without seeking an
16 opinion from the State Open Meetings Law Compliance Board.

17 (2) The failure of a person to file a complaint with the Board is not a
18 ground for the court to either stay or dismiss a petition.

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