

# HOUSE BILL 485

P3

3lr1483

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By: **Delegate Bobo**

Introduced and read first time: January 30, 2013

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Open Meetings Act – Application of Penalties**

3 FOR the purpose of applying certain penalty provisions to a member of a public body  
4 who attends a meeting of the public body that is held in violation of the Open  
5 Meetings Act; providing that certain penalties do not apply to specified  
6 members of public bodies under certain circumstances; and generally relating to  
7 the Open Meetings Act.

8 BY repealing and reenacting, without amendments,  
9 Article – State Government  
10 Section 10–510  
11 Annotated Code of Maryland  
12 (2009 Replacement Volume and 2012 Supplement)

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14 Article – State Government  
15 Section 10–511  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2012 Supplement)

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

20 **Article – State Government**

21 10–510.

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

23 (i) appropriating public funds;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) levying a tax; or

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

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

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

8 (b) (1) If a public body fails to comply with § 10–505, § 10–506, § 10–507,  
9 § 10–508, or § 10–509(c) of this subtitle any person may file with a circuit court that  
10 has venue a petition that asks the court to:

11 (i) determine the applicability of those sections;

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

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

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

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

20 (4) If a written complaint is filed with the Board in accordance with §  
21 10–502.5 of this subtitle, the time between the filing of the complaint and the mailing  
22 of the written opinion to the complainant and the affected public body under §  
23 10–502.5(g) of this subtitle may not be included in determining if a claim against a  
24 public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of  
25 this subsection.

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

29 (d) A court may:

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

32 (2) issue an injunction;

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

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

6           (5) as part of its judgment:

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

9                   (ii) require a reasonable bond to ensure the payment of the  
10 assessment; and

11           (6) grant any other appropriate relief.

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

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

16 10–511.

17           **(A)** A member of a public body who [willfully participates in a meeting of the  
18 body with knowledge that the meeting is being] **ATTENDS A MEETING OF THE**  
19 **PUBLIC BODY** held in violation of the provisions of this subtitle is subject to a civil  
20 penalty not to exceed \$100.

21           **(B) THIS SECTION DOES NOT APPLY TO A MEMBER OF A PUBLIC BODY**  
22 **WHO MAKES A MOTION OR VOTES IN FAVOR OF A MOTION AT A MEETING OF THE**  
23 **PUBLIC BODY THAT WOULD PREVENT A VIOLATION OF THE PROVISIONS OF THIS**  
24 **SUBTITLE FROM OCCURRING.**

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