

# HOUSE BILL 438

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CF SB 253

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By: **The Speaker (By Request – Administration)**

Introduced and read first time: January 26, 2017

Assigned to: Health and Government Operations and Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Legislative Transparency Act of 2017**

3 FOR the purpose of altering the annual reporting requirement of the State Open Meetings  
4 Law Compliance Board to require that certain information on certain violations be  
5 reported; requiring the Board to post certain information on a certain Web site;  
6 altering the scope of the training requirements under the Open Meetings Act to  
7 require the designation of at least a certain number of members with authority to  
8 close a meeting to receive the training; requiring that certain designated individuals  
9 attend certain meetings or that certain public bodies include a certain checklist in  
10 certain minutes; requiring the Board to collaborate with certain entities to  
11 implement a process for reporting the names of individuals who take a certain class  
12 and develop a certain list of contacts; requiring the Board to report to certain  
13 committees of the General Assembly on or before a certain date; requiring the  
14 Department of Legislative Services to post on the Web site of the General Assembly  
15 certain information contained in a certain legislative unit registration report;  
16 requiring a certain lobbyist who invites certain employees of the Executive Branch  
17 to a meal or reception to extend a certain invitation within a certain number of days  
18 before the date of the meal or reception and register the meal or reception with the  
19 State Ethics Commission on a certain form; requiring an executive employee  
20 registration report to include certain information; requiring the Ethics Commission  
21 to publish and post on its Web site certain information contained in a certain  
22 executive employee registration report; requiring the Ethics Commission to allow  
23 certain inspection of certain reports and maintain certain copies of certain reports;  
24 requiring the Ethics Commission to make certain reports filed on or after a certain  
25 date available electronically for public review in a machine-readable, searchable,  
26 and analyzable format; requiring the General Assembly to make available to the  
27 public certain video streaming of certain meetings of the Senate of Maryland, the  
28 House of Delegates of Maryland, and certain standing committees of the Senate or  
29 House; requiring the General Assembly, in compliance with certain laws, to make  
30 reasonable accommodations to provide certain live and archived video streaming in

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



an accessible format for individuals who are blind, deaf, or hard of hearing; defining a certain term; and generally relating to providing transparency to government.

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, 3–213, 5–709, and 5–710(a)

Annotated Code of Maryland

(2014 Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 2–101(b), (d), and (f)

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Government

Section 2–1805

Annotated Code of Maryland

(2014 Replacement 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; OR**

**(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.**

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.

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

(c) Compliance by a public body or a member of a public body with subsections (a) and (b) 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.

**(D) 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) Each public body shall[:

(1)] designate at least one [individual who is an employee, an officer, or a] member of the public body **WITH THE AUTHORITY TO CLOSE A MEETING** 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) **(1)** Within 90 days after being designated under subsection [(a)(1)] **(A)** of this section, an individual shall complete[.] **A CLASS ON THE OPEN MEETINGS LAW.**

[(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; or

(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.]

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

**(II) IF AN INDIVIDUAL DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION 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.**

5–709.

(a) (1) A regulated lobbyist who invites all members of a legislative unit to a meal or reception shall, at least 5 days before the date of the meal or reception:

[(1)] (I) extend a written invitation to all members of the legislative unit; and

[(2)] (II) register the meal or reception with the Department of Legislative Services on a form required by the Ethics Commission.

[(b)] (2) A legislative unit registration report required under [subsection (a) of this section] **PARAGRAPH (1) OF THIS SUBSECTION** shall include:

[(1)] (I) the date and location of the meal or reception; and

[(2)] (II) the name of the legislative unit invited.

[(c)] (3) [(1)] (I) Based on information contained in a legislative unit registration report filed under [subsection (a) of this section] **PARAGRAPH (1) OF THIS SUBSECTION**, the Department of Legislative Services shall publish **AND POST ON THE WEB SITE OF THE GENERAL ASSEMBLY** once a week a list containing the date and location of each upcoming meal or reception and the name of the legislative unit invited.

[(2)] (II) [(i)] 1. The Department of Legislative Services shall allow public inspection of any legislative unit registration report required under this [section] **SUBSECTION** during regular business hours.

[(ii)] 2. Within 3 business days after receipt of a legislative unit registration report required under this [section] **SUBSECTION**, the Department of Legislative Services shall forward the original registration report to the Ethics Commission.

[(iii)] 3. The Department of Legislative Services shall maintain a photocopy or electronic copy of each registration report required under this [section] **SUBSECTION**.

**(B) (1) A REGULATED LOBBYIST WHO INVITES AN EMPLOYEE OF THE EXECUTIVE BRANCH TO A MEAL OR RECEPTION SHALL, AT LEAST 5 DAYS BEFORE THE DATE OF THE MEAL OR RECEPTION:**

(I) EXTEND A WRITTEN INVITATION TO THE EMPLOYEE; AND

(II) REGISTER THE MEAL OR RECEPTION WITH THE ETHICS COMMISSION ON A FORM REQUIRED BY THE ETHICS COMMISSION.

(2) AN EXECUTIVE EMPLOYEE REGISTRATION REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE DATE AND LOCATION OF THE MEAL OR RECEPTION;  
AND

(II) THE NAME OF EACH EMPLOYEE INVITED.

(3) BASED ON INFORMATION CONTAINED IN AN EXECUTIVE EMPLOYEE REGISTRATION REPORT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ETHICS COMMISSION SHALL PUBLISH AND POST ON ITS WEB SITE ONCE A WEEK A LIST CONTAINING THE DATE AND LOCATION OF EACH UPCOMING MEAL OR RECEPTION AND THE NAME OF EACH EMPLOYEE INVITED.

(4) (I) THE ETHICS COMMISSION SHALL ALLOW PUBLIC INSPECTION OF ANY EXECUTIVE EMPLOYEE REGISTRATION REPORT REQUIRED UNDER THIS SUBSECTION DURING REGULAR BUSINESS HOURS.

(II) THE ETHICS COMMISSION SHALL MAINTAIN A PHOTOCOPY OR AN ELECTRONIC COPY OF EACH EXECUTIVE EMPLOYEE REGISTRATION REPORT REQUIRED UNDER THIS SUBSECTION.

[(d)] (C) (1) (i) A regulated lobbyist who is required to register under subsection (a) OR (B) of this section shall report the total cost of the meal or reception, and the name of each sponsor who contributes to the cost and the amount of the contribution, to the Ethics Commission within 14 days after the date of the meal or reception.

(ii) If any information required under subparagraph (i) of this paragraph is not known within 14 days after the date of the meal or reception, the regulated lobbyist shall, as to the information not known, specify the nature and estimate the amount of each item.

(2) If all of the information required by paragraph (1)(i) of this subsection is reported accurately and completely, the regulated lobbyist is not required to report the cost of the meal or reception under § 5-705(b)(2)(vii) of this subtitle.

(3) The Ethics Commission shall allow public inspection of each registration report required under this subsection during regular business hours.

(a) The Ethics Commission shall develop procedures under which a report required under §§ 5–705 through 5–709 of this subtitle:

(1) may be filed electronically without additional cost to the individual who files the report; [and]

(2) shall be made available for public inspection electronically; AND

**(3) IF FILED ON OR AFTER MAY 31, 2018, SHALL BE MADE AVAILABLE ELECTRONICALLY FOR PUBLIC REVIEW IN A MACHINE–READABLE, SEARCHABLE, AND ANALYZABLE FORMAT.**

### Article – State Government

2–101.

(b) “House” means the House of Delegates of Maryland.

(d) “Senate” means the Senate of Maryland.

(f) “Standing committee” means:

(1) a standing committee of the Senate, as set forth in the Senate rules; or

(2) a standing committee of the House, as set forth in the House rules.

**2–1805.**

**(A) THE GENERAL ASSEMBLY SHALL MAKE AVAILABLE TO THE PUBLIC LIVE AND ARCHIVED VIDEO STREAMING OF EACH MEETING OF THE SENATE, THE HOUSE, AND A STANDING COMMITTEE, INCLUDING ANY HEARINGS OR VOTING SESSIONS HELD BY A STANDING COMMITTEE.**

**(B) IN COMPLIANCE WITH ALL FEDERAL, STATE, AND LOCAL LAW, THE GENERAL ASSEMBLY SHALL MAKE REASONABLE ACCOMMODATIONS TO PROVIDE LIVE AND ARCHIVED VIDEO STREAMING AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IN AN ACCESSIBLE FORMAT FOR INDIVIDUALS WHO ARE BLIND, DEAF, OR HARD OF HEARING.**

SECTION 2. AND BE IT FURTHER ENACTED, That the State Open Meetings Law Compliance Board shall:

(1) collaborate with the University of Maryland's Institute for Governmental Service and Research, the Maryland Association of Counties, and the Maryland Municipal League to:

(i) implement a process for reporting to the Board 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 the individual is affiliated with; and

(ii) develop a list of contacts for public bodies to whom 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

(2) on or before December 1, 2017, 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 the results of the collaboration required under item (1) of this section.

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