

**Minutes**  
Open Meetings Compliance Board Meeting  
January 28, 2021, 3:30 pm  
Teleconference

**Board:** Lynn Marshall, Esq., Chair; Nancy M. Duden, Esq. and Jacob Altshuler, Esq., members

**Staff:** Janice Clark, Administrator; Ann MacNeille, Counsel; Thomas Chapman, Assistant Attorney General

**Members of the Public:** There were 16 participants in the call, including Board Members and Staff, who were identified by their phone numbers only.

1. *Call to order.* The Chair called the meeting to order at 3:30 pm and declared a quorum. She introduced herself and asked board members to do the same. The Chair noted that any public or agency comments on the bills should be submitted to the legislature directly. She added that this meeting was called to discuss whether the Board would submit comments on the proposed amendments in terms of whether they further the purposes of the Open Meetings Act and whether they are drafted clearly enough to be applied by public bodies, indicating that this was the first and only discussion the Board had had regarding the legislation.
2. *Discussion of Senate Bill 72/House Bill 344:* The Chair invited Ms. Duden to summarize the bills for the board and offer her opinion for discussion. Ms. Duden stated that she had reviewed the proposed legislation as introduced in the Senate, SB 72. She noted two potential areas of comment, see below. Board members agreed that they would submit comments but were not going to take a position supporting or opposing the bills. Discussion of comments:
  - a. If implemented, the bill would only apply to “a public body that is a state agency in the executive branch or local board of elections.” Ms. Duden said that she had not been able to find a definition of “state agency” in the State Government Article and that this lack of clarity in the definition could be troublesome, if the legislation were enacted. All Board members agreed that an unclear definition of who the bill applies to could be troublesome and that they should submit comments to the legislature with that assessment.
  - b. Additionally, Ms. Duden noted that the legislation would require state agencies to post live feeds, recordings, and minutes or transcripts in lieu of minutes. Ms. Duden expressed concern about the expectation that agencies post a searchable transcript of their meetings. She believes that it would add an undue burden for agencies and the Board, especially for lengthy meetings. Chairwoman Marshall and Mr. Altshuler agreed with that assessment. Mr. Altshuler expressed an additional concern regarding archives of video or audio, in that there is no provision for corrections to searchable transcripts of that audio/video if the transcript contains erroneous statements. After discussion, the Board members agreed that the board will indicate in its comments the

burdensome impact of this provision and ask them to include a procedure for correcting a transcript.

Board members conferred with staff to clarify the comments on SB 72/HB 344 and to instruct staff on the process for approval of the comment letter to the legislature. Chairwoman Marshall agreed that the comment letter, due on 1/29/21, would be sent under her cover on behalf of the Board.

3. *Expected bill, LR 2937, sponsored by Del. Carr.* Ms. Marshall indicated that a bill had been shared with the Board that morning that would amend the definition of an "administrative function" to exclude "any personnel matter that affects one or more specific individuals." The bill had not been introduced yet nor given an identifying number, but the Board had been asked to lend its support. The Board discussed its initial thoughts about the proposal noting its concerns regarding the proposed legislation's broad nature and their own lack of clarity regarding the impact. Board members asked staff to draft a comment letter expressing concerns over the over-broadness of the language in the bill; lack of clarity in the definition of 'personnel matter'; and that the interplay between the administrative function exclusion (§ 3-301) and the personnel matters exception (§ 3-305) to the Act needs to be made clear in the language of the bill. Ms. Duden added that having time to research the issues and past Opinions of the Board would help clarify the Board's position. A follow-up meeting was scheduled for February 4, 2021 at 4:00 pm to further discuss the comments the Board would like to submit.
4. *Adjournment.* The Chair confirmed the date for a follow up meeting to discuss a draft response regarding LR 2937. Staff were instructed to draft a comment letter based on the Board's discussion for review at the next open meeting on February 4, 2021 at 4:00pm. The Chair thanked everyone for their thoughtful input and attendance and adjourned the meeting at 4:20 pm.