

GENERAL PROVISIONS ARTICLE
TITLE 3. OPEN MEETINGS ACT

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

§ 3-101. Definitions.

- (a) *In general* — In this title the following words have the meanings indicated.
- (b) *Administrative function.* —
- (1) “Administrative function” means the administration of:
 - (i) a law of the State;
 - (ii) a law of a political subdivision of the State; or
 - (iii) a rule, regulation, or bylaw of a public body.
 - (2) “Administrative function” does not include:
 - (i) an advisory function;
 - (ii) a judicial function;
 - (iii) a legislative function;
 - (iv) a quasi-judicial function; or
 - (v) a quasi-legislative function.
- (c) *Advisory function.* — “Advisory function” means the study of a matter of public concern, or the making of recommendations on the matter, under a delegation of responsibility by:
- (1) law;
 - (2) the Governor or an official who is subject to the policy direction of the Governor;
 - (3) the chief executive officer of a political subdivision of the State or an official who is subject to the policy direction of the chief executive officer; or
 - (4) formal action by or for a public body that exercises an administrative function, judicial function, legislative function, quasi-judicial function, or quasi-legislative function.
- (d) *Board* — “Board” means the State Open Meetings Law Compliance Board.
- (d-1) *Class on the open meetings law* — “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 Boardmanship Academy Program.
- (e) *Judicial function.*
- (1) “Judicial function” means the exercise of any power of the Judicial Branch of the State government.
 - (2) “Judicial function” includes the exercise of:
 - (i) a power for which Article IV, § 1 of the Maryland Constitution provides;
 - (ii) a function of a grand jury;
 - (iii) a function of a petit jury;

- (iv) a function of the Commission on Judicial Disabilities; and
- (v) a function of a judicial nominating commission.
- (3) “Judicial function” does not include the exercise of rulemaking power by a court.
- (f) *Legislative function.* — “Legislative function” means the process or act of:
 - (1) approving, disapproving, enacting, amending, or repealing a law or other measure to set public policy;
 - (2) approving or disapproving an appointment;
 - (3) proposing or ratifying a constitution or constitutional amendment; or
 - (4) proposing or ratifying a charter or charter amendment.
- (g) *Meet.* — “Meet” means to convene a quorum of a public body to consider or transact public business.
- (h) *Public body.* —
 - (1) “Public body” means an entity that:
 - (i) consists of at least two individuals; and
 - (ii) is created by:
 - 1. the Maryland Constitution;
 - 2. a State statute;
 - 3. a county or municipal charter;
 - 4. a memorandum of understanding or a master agreement to which a majority of the county boards of education and the State Department of Education are signatories;
 - 5. an ordinance;
 - 6. a rule, resolution, or bylaw;
 - 7. an executive order of the Governor; or
 - 8. an executive order of the chief executive authority of a political subdivision of the State
 - (2) “Public body” includes:
 - (i) any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision of the State, or appointed by an official who is subject to the policy direction of the Governor or chief executive authority of the political subdivision, if the entity includes in its membership at least two individuals not employed by the State or the political subdivision;
 - (ii) any multimember board, commission, or committee that:
 - 1. is appointed by:
 - A. an entity in the Executive Branch of the State government, the members of which are appointed by the Governor, and that otherwise meets the definition of a public body under this subsection; or
 - B. an official who is subject to the policy direction of an entity described in item A of this item; and
 - 2. includes in its membership at least two individuals who are not members of the appointing entity or employed by the State; and
 - (iii) The Maryland School for the Blind.
 - (3) “Public body” does not include:
 - (i) any single member entity;
 - (ii) any judicial nominating commission;
 - (iii) any grand jury;

- (iv) any petit jury;
- (v) the Appalachian States Low Level Radioactive Waste Commission established in § 7-302 of the Environment Article;
- (vi) except when a court is exercising rulemaking power, any court established in accordance with Article IV of the Maryland Constitution;
- (vii) the Governor's cabinet, the Governor's Executive Council as provided in Title 8, Subtitle 1 of the State Government Article, or any committee of the Executive Council;
- (viii) a local government's counterpart to the Governor's cabinet, Executive Council, or any committee of the counterpart of the Executive Council;
- (ix) except as provided in paragraph (1) of this subsection, a subcommittee of a public body as defined in paragraph (2)(i) of this subsection;
- (x) the governing body of a hospital as defined in § 19-301 of the Health—General Article; and
- (xi) a self-insurance pool that is established in accordance with Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment Article by:
 1. a public entity, as defined in § 19-602 of the Insurance Article; or
 2. a county or municipal corporation, as described in § 9-404 of the Labor and Employment Article.
- (i) *Quasi-judicial function.* — “Quasi-judicial function” means a determination of:
 - (1) a contested case to which Title 10, Subtitle 2 of the State Government Article applies;
 - (2) a proceeding before an administrative agency for which Title 7, Chapter 200 of the Maryland Rules would govern judicial review; or
 - (3) a complaint by the Board in accordance with this title.
- (j) *Quasi-legislative function.* — “Quasi-legislative function” means the process or act of:
 - (1) adopting, disapproving, amending, or repealing a rule, regulation, or bylaw that has the force of law, including a rule of a court;
 - (2) approving, disapproving, or amending a budget; or
 - (3) approving, disapproving, or amending a contract.
- (k) *Quorum.* — “Quorum” means:
 - (1) a majority of the members of a public body; or
 - (2) the number of members that the law requires.

§ 3-102. Legislative policy

- (a) *In general.* — It is essential to the maintenance of a democratic society that, except in special and appropriate circumstances:
 - (1) public business be conducted openly and publicly; and
 - (2) the public be allowed to observe:
 - (i) the performance of public officials; and
 - (ii) the deliberations and decisions that the making of public policy involves.
- (b) *Accountability; faith in government; effectiveness of public involvement.*
 - (1) The ability of the public, its representatives, and the media to attend, report on, and broadcast meetings of public bodies and to witness the phases of the

deliberation, policy formation, and decision making of public bodies ensures the accountability of government to the citizens of the State.

- (2) The conduct of public business in open meetings increases the faith of the public in government and enhances the effectiveness of the public in fulfilling its role in a democratic society.
- (c) *Public policy.* — Except in special and appropriate circumstances when meetings of public bodies may be closed under this title, it is the public policy of the State that the public be provided with adequate notice of the time and location of meetings of public bodies, which shall be held in places reasonably accessible to individuals who would like to attend these meetings.

§ 3-103. Scope of title

- (a) *Not applicable.* — Except as provided in subsection (b) of this section and § 3-104 of this subtitle, this title does not apply to:
 - (1) a public body when it is carrying out:
 - (i) an administrative function;
 - (ii) a judicial function; or
 - (iii) a quasi-judicial function; or
 - (2) a chance encounter, a social gathering, or any other occasion that is not intended to circumvent this title.
- (b) *Applicable.* — This title applies to a public body when it is meeting to consider:
 - (1) granting a license or permit; or
 - (2) a special exception, variance, conditional use, or zoning classification, the enforcement of any zoning law or regulation, or any other zoning matter.

§ 3-104. Minutes for closed session

If a public body recesses an open session to carry out an administrative function in a meeting that is not open to the public, the minutes for the public body's next meeting shall include:

- (1) a statement of the date, time, place, and persons present at the administrative function meeting; and
- (2) a phrase or sentence identifying the subject matter discussed at the administrative function meeting.

§ 3-105. Conflict of laws.

Whenever this title and another law that relates to meetings of public bodies conflict, this title applies unless the other law is more stringent.

SUBTITLE 2. STATE OPEN MEETINGS LAW COMPLIANCE BOARD.

§ 3-201. Established.

There is a State Open Meetings Law Compliance Board.

§ 3-202. Membership

- (a) *Composition; appointment of members* —
 - (1) The Board consists of three members.
 - (2) At least one of the members shall be an attorney admitted to the Maryland Bar.
 - (3) The Governor shall appoint the members with the advice and consent of the Senate.
- (b) *Chair*. — From among the members of the Board, the Governor shall appoint a chair.
- (c) *Tenure*. —
 - (1) The term of a member is 3 years.
 - (2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2014.
 - (3) At the end of a term, a member continues to serve until a successor is appointed.
 - (4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.
 - (5) A member may not serve for more than two consecutive 3-year terms.

§ 3-203. Quorum; meetings; compensation; staff

- (a) *Quorum*. — A majority of the full authorized membership of the Board is a quorum.
- (b) *Meetings*. — The Board shall determine the times and places of its meetings.
- (c) *Compensation; reimbursement for expenses*. — A member of the Board:
 - (1) may not receive compensation as a member of the Board; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (d) *Staff*. — The Office of the Attorney General shall provide staff for the Board.

§ 3-204. Duties

- (a) *Complaints on violations; written opinion*. — The Board shall:
 - (1) receive, review, and, subject to § 3-207 of this subtitle, resolve complaints from any person alleging a violation of this title; and
 - (2) issue a written opinion as to whether a violation has occurred.
- (b) *Complaints on prospective violations*. — The Board shall receive and review any complaint alleging a prospective violation of this title as provided under § 3-212 of this subtitle.
- (c) *Compliance; recommendations*. — The Board shall:
 - (1) study ongoing compliance with this title by public bodies; and
 - (2) make recommendations to the General Assembly for improvements in this title.
- (d) *Educational programs and materials*. — 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;
 - (3) the Maryland Association of Counties; and

- (4) the Maryland Association of Boards of Education.
- (e) *Annual report.* —
 - (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;
 - (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
 - (vi) recommend any improvements to this title.

§ 3-205. Complaint

- (a) *In general.* — Any person may file a written complaint with the Board seeking a written opinion from the Board on the application of this title to the action of a public body covered by this title.
- (b) *Requirements.* — The complaint shall:
 - (1) identify the public body that is the subject of the complaint;
 - (2) describe the action of the public body, the date of the action, and the circumstances of the action; and
 - (3) be signed by the complainant.

§ 3-206. Receipt of complaint; response

- (a) *Receipt of complaint.* — Except as provided in subsection (c) of this section, on receipt of the written complaint, the Board promptly shall:
 - (1) send the complaint to the public body identified in the complaint; and
 - (2) request that a response to the complaint be sent to the Board.
- (b) *Response required.* —
 - (1) The public body shall file a written response to the complaint within 30 days after it receives the complaint.
 - (2) On request of the Board, the public body shall include with its written response to the complaint a copy of:
 - (i) the notice provided under § 3-302 of this title;
 - (ii) any written statement made under § 3-305(d)(2)(ii) of this title; and
 - (iii) the minutes and any recording made by the public body under § 3-306 of this title.
 - (3) The Board shall maintain the confidentiality of the minutes and any recording submitted by a public body that are sealed in accordance with § 3-306(c)(3)(ii) of this title.
- (c) *Procedure for public body no longer existing.* —

- (1) If the public body identified in the complaint no longer exists, the Board promptly shall send the complaint to the official or entity that appointed the public body.
- (2) The official or entity that appointed the public body shall comply, to the extent feasible, with the requirements of subsection (b) of this section.
- (d) *Effect of failure to respond.* — If a written response is not received within 45 days after the notice is sent, the Board shall decide the case on the facts before the Board.

§ 3-207. Review and written opinion by Board

- (a) *Information sufficient for determination.* —
 - (1) The Board shall review the complaint and any response.
 - (2) If the information in the complaint and response is sufficient for making a determination, within 30 days after receiving the response the Board shall issue a written opinion as to whether a violation of this title has occurred or will occur.
- (b) *Informal conference for additional information.* —
 - (1) If the Board is unable to reach a determination based on the written submissions before it, the Board may schedule an informal conference to hear from the complainant, the public body, or any other person with relevant information about the subject of the complaint.
 - (2) An informal conference scheduled by the Board is not a contested case within the meaning of § 10-202(d) of the State Government Article.
 - (3) The Board shall issue a written opinion within 30 days after the informal conference.
- (c) *Extension of time for opinion; Board unable to resolve complaint.* —
 - (1) If the Board is unable to render an opinion on a complaint within the time periods specified in subsection (a) or (b) of this section, the Board shall:
 - (i) state in writing the reason for its inability to render an opinion; and
 - (ii) issue an opinion as soon as possible but not later than 90 days after the filing of the complaint.
 - (2) An opinion of the Board may state that the Board is unable to resolve the complaint.
- (d) *Required recipients of opinion.* — The Board shall send a copy of the written opinion to the complainant and the affected public body.

§ 3-208. Distribution of opinions

- (a) *In general.* — The Board may send to any public body in the State any written opinion that will provide the public body with guidance on compliance with this title.
- (b) *On request.* — On request, the Board shall provide a copy of a written opinion to any person.

§ 3-209. Opinions are advisory only

The opinions of the Board are advisory only.

§ 3-210. Limit on authority of Board

Except as provided in § 3-211 of this subtitle, the Board may not require or compel any specific actions by a public body.

§ 3-211. Announcement of violation; summary of opinion

- (a) *Scope of Section.* — 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.
- (b) *If violation has occurred.* — 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.
- (c) *Representative may not provide announcement and summary.* — The public body may not designate its counsel or another representative to provide the announcement and summary.
- (d) *Limitations on compliance.* — Compliance by a public body or a member of a public body with subsections (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) *Posting* — 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.

§ 3-212. Complaint process for prospective violation

- (a) *In general.* — On receipt of an oral or written complaint by any person that a meeting required to be open under this title will be closed in violation of this title, the Board, acting through its chair, a designated Board member, or any authorized staff person available to the Board, may contact the public body to determine the nature of the meeting that will be held and the reason for the expected closure of the meeting.
- (b) *Notice of potential violation.* — When at least two members of the Board conclude that a violation of this title may occur if the closed meeting is held, the person acting for the Board immediately shall inform the public body of the potential violation and any lawful means that are available for conducting its meeting to achieve the purposes of the public body.
- (c) *Notice to complainant.* — The person acting for the Board shall inform the person who filed the complaint under subsection (a) of this section of the result of any effort to achieve compliance with this title under subsection (b) of this section.
- (d) *Written report.* — The person acting for the Board shall file a written report with the Board describing the complaint, the effort to achieve compliance, and the results of the effort.

(e) *Effect of complaint and action by Board.* — The filing of a complaint under subsection (a) of this section and action by a person acting for the Board under subsections (b), (c), and (d) of this section may not prevent or bar the Board from considering and acting on a written complaint filed in accordance with § 3-205 of this subtitle.

§ 3-213. Required Training.

- (a) *Scope of Section.* — 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.
- (b) *Designation of individual.* — Each public body shall 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.
- (c) *Timing for Completion of Class.* — Within 90 days after being designated under subsection (b) of this section, an individual shall complete a class on the open meetings law.
- (d) *Requirements for holding meetings.* —
- (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.

SUBTITLE 3. OPEN MEETINGS REQUIREMENTS

§ 3-301. Open sessions generally required.

Except as otherwise expressly provided in this title, a public body shall meet in open session.

§ 3-302. Notice.

- (a) *Required.* — Before meeting in a closed or open session, a public body shall give reasonable advance notice of the session.
- (b) *Form.* — Whenever reasonable, a notice under this section shall:
- (1) be in writing;
 - (2) include the date, time, and place of the session; and

- (3) if appropriate, include a statement that a part or all of a meeting may be conducted in closed session.
- (c) *Method.* — A public body may give the notice under this section as follows:
 - (1) if the public body is a unit of State government, by publication in the Maryland Register;
 - (2) by delivery to representatives of the news media who regularly report on sessions of the public body or the activities of the government of which the public body is a part;
 - (3) if the public body previously has given public notice that this method will be used:
 - (i) by posting or depositing the notice at a convenient public location at or near the place of the session; or
 - (ii) by posting the notice on an Internet Web site ordinarily used by the public body to provide information to the public; or
 - (4) by any other reasonable method.
- (d) *Copy of notice.* — A public body shall keep a copy of a notice provided under this section for at least 1 year after the date of the session.

§ 3-302.1. Availability of agenda to public.

- (a) *Required.* —
 - (1) Subject to subsection (b) of this section, before meeting in an open session, a public body shall make available to the public an agenda:
 - (i) containing known items of business or topics to be discussed at the portion of the meeting that is open; and
 - (ii) indicating whether the public body expects to close any portion of the meeting in accordance with § 3-305 of this subtitle.
 - (2) If an agenda has been determined at the time the public body gives notice of the meeting under § 3-302 of this subtitle, the public body shall make available the agenda at the same time the public body gives notice of the meeting.
 - (3) If an agenda has not been determined at the time the public body gives notice of the meeting, the public body shall make available the agenda as soon as practicable after the agenda has been determined but no later than 24 hours before the meeting.
- (b) *Emergency meetings.* — If a public body is unable to comply with the provisions of subsection (a) of this section because the meeting was scheduled in response to an emergency, a natural disaster, or any other unanticipated situation, the public body shall make available on request an agenda of the meeting within a reasonable time after the meeting occurs.
- (c) *Closed meetings.* — A public body is not required to make available any information in the agenda regarding the subject matter of the portion of the meeting that is closed in accordance with § 3-305 of this subtitle.
- (d) *Method for making available an agenda.* —
 - (1) A public body required to make available an agenda under subsection (a) of this section may make available the agenda using a method authorized for giving notice under § 3-302(c) of this subtitle.
 - (2) The method a public body uses for making available an agenda may be different from the method a public body uses for giving notice.

- (e) *Alteration of agenda.* — Nothing in this section may be construed to prevent a public body from altering the agenda of a meeting after the agenda has been made available to the public.

§ 3-303. Attendance at open session

- (a) *In general.* — Whenever a public body meets in open session, the general public is entitled to attend.
- (b) *Rules.* — A public body shall adopt and enforce reasonable rules regarding the conduct of persons attending its meetings and the videotaping, televising, photographing, broadcasting, or recording of its meetings.
- (c) *Removal of individuals.* —
- (1) If the presiding officer determines that the behavior of an individual is disrupting an open session, the public body may have the individual removed.
 - (2) Unless the public body or its members or agents act maliciously, the public body, members, and agents are not liable for having an individual removed under this subsection.

§ 3-304. Interpreters

- (a) *Scope of section.* — This section applies only to the Executive and Legislative branches of the State government.
- (b) *In general.* — On request and to the extent feasible, a unit that holds a public hearing shall provide a qualified interpreter to assist deaf individuals to understand the proceeding.
- (c) *Form of request.* — A request for an interpreter must be submitted in writing or by telecommunication at least 5 days before the proceeding begins.
- (d) *Determination of feasibility.* — The unit shall determine, in each instance, whether it is feasible to provide an interpreter.

§ 3-305. Closed sessions

- (a) *Construction of section.* — The exceptions in subsection (b) of this section shall be strictly construed in favor of open meetings of public bodies.
- (b) *In general.* — Subject to subsection (d) of this section, a public body may meet in closed session or adjourn an open session to a closed session only to:
- (1) discuss:
 - (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or
 - (ii) any other personnel matter that affects one or more specific individuals;
 - (2) protect the privacy or reputation of an individual with respect to a matter that is not related to public business;
 - (3) consider the acquisition of real property for a public purpose and matters directly related to the acquisition;
 - (4) consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;

- (5) consider the investment of public funds;
 - (6) consider the marketing of public securities;
 - (7) consult with counsel to obtain legal advice;
 - (8) consult with staff, consultants, or other individuals about pending or potential litigation;
 - (9) conduct collective bargaining negotiations or consider matters that relate to the negotiations;
 - (10) discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including:
 - (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans;
 - (11) prepare, administer, or grade a scholastic, licensing, or qualifying examination;
 - (12) conduct or discuss an investigative proceeding on actual or possible criminal conduct;
 - (13) comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
 - (14) discuss, before a contract is awarded or bids are opened, a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- (c) *Limitation.* — A public body that meets in closed session under this section may not discuss or act on any matter not authorized under subsection (b) of this section.
- (d) *Vote; written statement.* —
- (1) Unless a majority of the members of a public body present and voting vote in favor of closing the session, the public body may not meet in closed session.
 - (2) Before a public body meets in closed session, the presiding officer shall:
 - (i) conduct a recorded vote on the closing of the session; and
 - (ii) make a written statement of the reason for closing the meeting, including a citation of the authority under this section, and a listing of the topics to be discussed.
 - (3) If a person objects to the closing of a session, the public body shall send a copy of the written statement to the Board.
 - (4) The written statement shall be a matter of public record.
 - (5) A public body shall keep a copy of the written statement for at least 1 year after the date of the session.

§ 3-306. Minutes; tape recordings

- (a) *Scope of section.* — This section does not:
- (1) require any change in the form or content of the Journal of the Senate of Maryland or Journal of the House of Delegates of Maryland; or
 - (2) limit the matters that a public body may include in its minutes.
- (b) *Minutes required.* —
- (1) Subject to paragraphs (2) and (3) of this subsection, as soon as practicable after a public body meets, it shall have minutes of its session prepared.
 - (2) A public body need not prepare minutes of an open session if:

- (i) live and archived video or audio streaming of the open session is available; or
 - (ii) the public body votes on legislation and the individual votes taken by each member of the public body who participates in the voting are posted promptly on the Internet.
- (3) The information specified under paragraph (2) of this subsection shall be deemed the minutes of the open session.
- (c) *Content of minutes; tape recordings.* —
 - (1) The minutes shall reflect:
 - (i) each item that the public body considered;
 - (ii) the action that the public body took on each item; and
 - (iii) each vote that was recorded.
 - (2) If a public body meets in closed session, the minutes for its next open session shall include:
 - (i) a statement of the time, place, and purpose of the closed session;
 - (ii) a record of the vote of each member as to closing the session;
 - (iii) a citation of the authority under § 3-305 of this subtitle for closing the session; and
 - (iv) a listing of the topics of discussion, persons present, and each action taken during the session.
 - (3) (i) A session may be recorded by a public body.
 - (ii) Except as otherwise provided in paragraph (4) of this subsection, the minutes and any recording of a closed session shall be sealed and may not be open to public inspection.
- (4) The minutes and any recording shall be unsealed and open to inspection as follows:
 - (i) for a meeting closed under § 3-305(b)(5) of this subtitle, when the public body invests the funds;
 - (ii) for a meeting closed under § 3-305(b)(6) of this subtitle, when the public securities being discussed have been marketed; or
 - (iii) on request of a person or on the public body's own initiative, if a majority of the members of the public body present and voting vote in favor of unsealing the minutes and any recording.
- (d) *Access.* — Except as provided in subsection (c) of this section, minutes of a public body are public records and shall be open to public inspection during ordinary business hours.
- (e) *Retention of minutes and tape recordings.* —
 - (1) A public body shall keep a copy of the minutes of each session and any recording made under subsection (b)(2)(i) or (c)(3)(i) of this section for at least 5 years after the date of the session.
 - (2) To the extent practicable, a public body shall post online the minutes or recordings required to be kept under paragraph (1) of this subsection.

SUBTITLE 4. ENFORCEMENT.

§ 3-401. Application of section

(a) *Scope of section.* —

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

- (i) appropriating public funds;
- (ii) imposing a tax; or
- (iii) providing for the issuance of bonds, notes, or other evidences of public obligation.

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

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

(b) *Petition authorized.* —

(1) If a public body fails to comply with § 3-301, § 3-302, § 3-303, § 3-305, or § 3-306(c) of this title, any person may file with a circuit court that has venue a petition that asks the court to:

- (i) determine the applicability of those sections;
- (ii) require the public body to comply with those sections; or
- (iii) void the action of the public body.

(2) If a violation of § 3-302, § 3-305, or § 3-306(c) of this title is alleged, the person shall file the petition within 45 days after the date of the alleged violation.

(3) If a violation of § 3-301 or § 3-303 of this title is alleged, the person shall file the petition within 45 days after the public body includes in the minutes of an open session the information specified in § 3-306(c)(2) of this title.

(4) If a written complaint is filed with the Board in accordance with § 3-205 of this title, the time between the filing of the complaint and the mailing of the written opinion to the complainant and the affected public body under § 3-207(d) of this title may not be included in determining whether a claim against a public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of this subsection.

(c) *Presumption.* — In an action under this section:

- (1) it is presumed that the public body did not violate any provision of this title; and
- (2) the complainant has the burden of proving the violation.

(d) *Authority of court.* — A court may:

- (1) consolidate a proceeding under this section with another proceeding under this section or an appeal from the action of the public body;
- (2) issue an injunction;
- (3) determine the applicability of this title to the discussions or decisions of public bodies;
- (4) declare the final action of a public body void if the court finds that the public body willfully failed to comply with § 3-301, § 3-302, § 3-303, or § 3-306(c) of this title and that no other remedy is adequate;
- (5) as part of its judgment:
 - (i) assess against any party reasonable counsel fees and other litigation expenses that the party who prevails in the action incurred; and
 - (ii) require a reasonable bond to ensure the payment of the assessment; and
- (6) grant any other appropriate relief.

(e) *Petition.* —

(1) A person may file a petition under this section without seeking an opinion from the Board.

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

§ 3-402. Penalty.

- (a) *In general.* — In accordance with § 3-401 of this subtitle, a public body that willfully meets with knowledge that the meeting is being held in violation of this subtitle is subject to a civil penalty not to exceed:
 - (1) \$250 for the first violation; and
 - (2) \$1,000 for each subsequent violation that occurs within 3 years after the first violation.
- (b) *Determination of fine.* — When determining the amount of a fine under subsection (a) of this section, the court shall consider the financial resources available to the public body and the ability of the public body to pay the fine.

Subtitle 5. Short Title.

§ 3-501. Short title

This title may be cited as the Open Meetings Act.