



Senate Bill 826

Open Meetings Act - Violations and Penalties

MACo Position: **SUPPORT**
WITH AMENDMENTS

Date: March 6, 2013

To: Education, Health and Environmental Affairs
Committee
From: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **SUPPORTS SB 826 WITH AMENDMENTS**. The bill requires a public body that has been found by the Open Meetings Compliance Board to have violated the Open Meetings Act to have a member summarize the opinion at the public body's next open meeting and have a majority of the public body's members sign the opinion and return it to the Board.

Under current law, a member of a public body who knowingly and willfully participates in a meeting that violates the Open Meetings Act can be subject to a civil penalty up to \$100. SB 826 would apply the civil penalty to the public body as a whole and increase the penalties - up to \$1,000 for the first violation and \$10,000 for each subsequent violation that occurs within 3 years of the first violation.

MACo supports the removal of the severe new penalty language. The bill would place a new financial burden on county governments and especially affect small rural counties and public bodies with limited financial resources. In the vast majority of cases, a violation of the Open Meetings Act was unintentional and could be addressed through better training. Maintaining the existing individual civil penalty is appropriate for those rare cases where the individual knowingly and willfully violates the Act.

While proponents may argue that shifting the penalty from an individual member to the public body would prevent any potential "chilling effect" of individuals not wanting to serve on a public body, board, or task force because of the enhanced potential personal liability, local governments would still have to consider and budget for the additional potential liability costs of a public body. This could result in a chilling effect where counties limit the creation and use of otherwise beneficial task forces or study groups.

Rather than imposing new penalties on county public bodies, MACo believes a more productive approach to address Open Meetings violations is through better training. Such an approach would avoid any unintended consequences, such as limiting the use of volunteer bodies or study groups. Accordingly, MACo recommends that the Committee issue a report of **FAVORABLE WITH AMENDMENTS** on SB 826.