Maryland General Assembly
Joint Committee on Legislative Information Technology and Open Government

---

This report is submitted to satisfy the requirement of State Government Article § 2-10A-14.

Subject to § 2-1246 of this title, the committee shall submit a report to the Legislative Policy Committee on or before December 1 of each year. The report shall include (1) a description of the work of the committee and (2) any recommendations of the committee.

Maryland General Assembly
Joint Committee on Legislative Information Technology and Open Government
2017 Interim Membership Roster

James E. DeGrange, Sr., Senate Chairman
Luke Clippinger, House Chairman
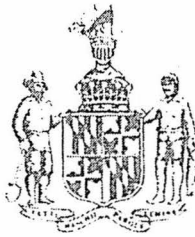
Senators
George C. Edwards
J.B. Jennings
Nancy J. King
Katherine Klausmeier
Nathaniel J. McFadden

Delegates
Mary Beth Carozza
Jazz Lewis
Warren E. Miller
Dan K. Morhaim
Pat Young

Committee Staff
Lindsay A. Rowe
Kathryn H. Selle

Joint Committee on Legislative Information Technology and Open Government

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chairman
The Honorable Michael E. Busch, Co-chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Legislative Information Technology and Open Government respectfully submits its 2017 interim activities report. The joint committee met on November 8, 2017, and its work is summarized below.

Open Meetings Compliance Board

Jonathan Hodgson, Chair of the Open Meetings Compliance Board, described the board membership and noted that the members' packets contained the board's twenty-fifth annual report and a report on the cost-benefit analysis required by Chapters 525 and 526 of 2017. The report sought to determine the costs and benefits to the State of tracking the names and public body affiliations of individuals who complete a class on the Open Meetings Act. The report concluded that the best and most cost-effective method of monitoring compliance with the training requirement and maintaining accurate information is to require individual agencies and public bodies to maintain their own compliance data. Regarding the annual report, Mr. Hodgson stated that the board received 32 complaints during fiscal 2017.

In response to questions, Mr. Hodgson explained that the board does not have the power to impose sanctions for violations of the Act, but if the board finds a violation and issues an opinion, the public body must read the opinion into the record at its next meeting as a public acknowledgement of the violation. The opinions are designed to have precedent value and be instructive to other public bodies. Mr. Hodgson further stated that the board is not proposing legislation but remains concerned about the amount of time provided for it to consider and make recommendations on legislative proposals. He explained that when the board does not have sufficient time to conduct a meeting and offer a thoughtful position, its default position is to oppose the legislation. Finally, committee members and Mr. Hodgson had a further discussion about enforcement of the Act, noting that while the board does not have the ability to impose a penalty, a court may impose a civil penalty under certain circumstances.

Public Information Act Compliance Board

John H. West III, Chair of the Public Information Act (PIA) Compliance Board, described the board's membership and responsibilities and noted that the members' packets contained the board's second annual report. He briefly summarized the number and outcome of complaints received and referred the committee members to the report for more detail. Mr. West emphasized the value and competency of the Public Access Ombudsman in resolving complaints. He also noted that agencies are providing better explanations of costs charged for PIA responses.

Mr. West highlighted several of the recommendations for legislative action that were included in the board's report. The board would like the legislature to address a recurring issue faced by inmates who are indigent but nonetheless have fee waiver requests denied. The board also recommends that contractors involved in the storage and retention of government records be subject to the same record management requirements as the public body. To increase the benefits of referring cases to the Ombudsman, the board recommends authorizing referrals at any time and expanding the timeframe for review in cases referred to the Ombudsman. Finally, Mr. West noted that the board currently benefits from the technological expertise of one of its members and recommends requiring at least one member to possess such expertise so that the board can continue to effectively review complaints.

In response to questions from committee members, Mr. West agreed to look into whether Governor Larry Hogan's Administration intends to propose legislation on any of the recommended matters.

Office of the Public Access Ombudsman

Lisa Kershner, Public Access Ombudsman, briefed the committee on the establishment of the Office of the Public Access Ombudsman and its activities. Ms. Kershner provided documents summarizing the Ombudsman's work and operations and comments relating to the Office of the Attorney General's Interim Report on the Implementation of the PIA (December 2016). She discussed the various types of requestors and noted that many requests come from incarcerated individuals. She also described the diverse community of responders with which she has worked. In response to questions, Ms. Kershner noted that almost all agencies have been receptive to working with her office.

Ms. Kershner highlighted several types of issues that she has mediated, including withholding of documents; withholding of information within documents through redaction; fee issues, including amounts charged and denials of waivers; and failure to respond to a request. Ms. Kershner estimated that an agency's failure to respond represented between 18% and 22% of cases brought to the Ombudsman. In response to questions, Ms. Kershner stated that instances of failure to respond occur at the State and local levels and that this issue is not unique to just a few

agencies. Ms. Kershner clarified that she does not have the authority to issue a decision on a complaint but that she helps resolve disputes between requestors and responding agencies.

Ms. Kershner also outlined several strategies that have worked for agencies responding to PIA requests, including (1) establishing a clear internal process for fielding and handling PIA requests through to conclusion, including clear direction on when to communicate with the requestor; (2) staff training, particularly when staff turnover is frequent; and (3) messaging from the top of the agency to set the tone and direction to employees of what is expected with regard to PIA requests. Ms. Kershner further stated that agencies should have clear and functional record retention and management programs, providing an efficient way to retrieve electronic records. She noted that these policies would provide additional benefits to agencies, including providing for efficient continuity of operations, emergency preparedness, and access for historical and research purposes. Ms. Kershner stated she hopes to facilitate programs in which agencies can share PIA experiences, information, and knowledge. While some agencies have robust systems which include online tracking of requests, others, particularly smaller agencies, would need additional resources to improve their systems. In response to questions, Ms. Kershner highlighted several agencies with exemplary PIA training programs for staff or online PIA request tracking systems.

Ms. Kershner provided comments regarding potential legislation in her written materials and highlighted for the committee her recommendation that the legislature examine the handling of personal information under the PIA. In response to questions, Ms. Kershner added that she hoped the legislature would consider (1) a compliance monitoring program that would not function as enforcement but as an audit examining an agency's performance to determine how well its PIA process is working and where there is room for improvement and (2) establishing an alternative to the court process for requestors who cannot afford an attorney or who have time-sensitive requests. In response to additional questions, she described the need for a process that would allow an agency to issue a temporary denial and seek court guidance without naming a requestor as a respondent and the need to require fee waivers for indigent inmates.

Office of Information Systems Projects

Michael Gaudiello, Director of the Office of Information Systems (OIS) in the Department of Legislative Services (DLS), briefed the joint committee on the status of ongoing and new OIS projects. He explained that OIS worked with the Office of Policy Analysis to develop an online bill drafting review process. He also described enhancements made to the new web-based floor system that was used during the 2017 session. Regarding changes to the constituent tracking application, OIS remains committed to moving forward with the project and anticipates implementing a pilot program during the 2018 interim, with a full rollout for the 2019 session.

Mr. Gaudiello also explained that after replacing all House floor laptops before the 2017 session, OIS observed a 35% failure rate during session and contacted Dell, facilitating a recall

and replacement with a new Dell model at no cost to the Maryland General Assembly (MGA). In addition, during the annual interim upgrades, OIS has provided every office with an external hard drive and instructions to periodically backup files to help recover from any issues with viruses or computer failures. Mr. Gaudiello reminded committee members about the OIS training program, including the opportunity for members to request that a specialized class be developed if needed.

Regarding new projects, OIS is now managing the telecommunications office and SAP operations. OIS has upgraded the 9-1-1 server and the telecom switch for the voicemail system to current software versions and replaced the 9-1-1 server hardware. OIS also upgraded SAP software and moved the SAP servers to the MGA virtual server environment, allowing OIS to reduce costs by removing and not replacing six physical servers. OIS is developing an expanded SAP application to allow timesheet entry by members' staff and MGA contractors. The expanded application will be Internet based and will not require MGA network connectivity. OIS is also investigating functionality with mobile devices. OIS expects to rollout the expanded timesheet functionality after the 2018 session.

To implement Chapter 816 of 2017, which requires the last two weeks of the legislative session to be video streamed live by Maryland Public Television (MPT), OIS is working with MPT to ensure that the supporting facilities and infrastructure are in place. The streams will be available on the MGA website and bills receiving extended discussion on the floor will be marked and linked on the bill page for viewing. In addition, OIS is developing applications for mobile devices, including a pilot project for the 2018 session in which the Health and Government Operations Committee will record all committee votes on an iPad application and an application to make the MGA website more user friendly when viewed on a mobile device. Finally, Mr. Gaudiello described the new DLS website and its functionality. The first phase of the new website was launched in October 2017. The second phase will launch after the 2018 session and will include an RSS feed and open data downloads.

In response to questions regarding changes to the constituent tracking application, Mr. Gaudiello noted that the Microsoft Dynamics Customer Relationship Management system can be customized and is mobile friendly, cost effective, and able to handle large amounts of data. He also discussed steps OIS has already taken, including obtaining feedback from members. Delegate Young made a motion to survey members regarding the customization of the system. Delegate Lewis seconded the motion and the committee members present voted unanimously in favor. OIS will be working with Delegate Young to develop the survey.

In response to questions regarding members tracking the status of their own legislation requests, Mr. Gaudiello agreed to work with the Office of Policy Analysis to explore options. Regarding the issue of establishing and using electronic bill files to store and distribute bill testimony, Mr. Gaudiello stated that it would not be technically challenging or very expensive but
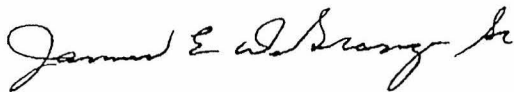
is a policy matter. Mr. Gaudiello agreed to explore the topic further and provide a written summary to the joint committee before the start of the 2018 session.

Public Comment

No members of the public submitted comments.

The joint committee appreciates the advice and assistance of the private citizens and public officials who participated in the joint committee's activities during the 2017 interim. We also wish to thank the staff of the Department of Legislative Services for their assistance.

Respectfully submitted,

James E. DeGrange, Sr.
Senate Co-chair

Luke Clippinger
House Co-chair

JED:LC/LAR:KHS/mlm

cc: Mr. Warren G. Deschenaux
       Mr. Ryan Bishop
       Ms. Carol Swan
       Ms. Ryane Necessary