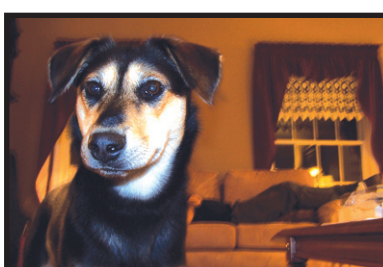


news to us



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“WHAT CAN PEOPLE DO TO US?”

Does the road to good government run through municipal officials' wallets?

BY PAUL MCMORROW | PAUL@WEEKLYDIG.COM

Approximately two years ago, Suffolk County DA Dan Conley sent a letter to the Boston City Council, excoriating the body for violating the state's Open Meeting Law and holding illegal closed-door meetings. Three days after receiving that letter, a quorum of city councilors gathered in the offices of the Boston Redevelopment Authority for an illegal, closed-door meeting. A trio of citizens sued, and more than a year ago, the council was found guilty of 11 separate violations of the Open Meeting Law and fined \$11,000.

Since that time, the council has taken great lengths to comply with the law, all the while complaining—loudly, and to anyone within earshot—that their guilty verdict was a sham. The BRA, which was a party to the great majority of the meetings the city council was fined for, appears to have learned its lesson even more poorly: On June 1, Conley's office sent the agency a letter ordering them to stop meeting behind closed doors with officials from Harvard and Boston College.

Pam Wilmot, executive director of the good-government watchdog group Common Cause, says legislators have complained to her that “whenever there's a controversial matter and boards go into executive session, the discussion isn't about whether or not it's appropriate to go into executive session—it's ‘What can people do to us?’ Well, what can we do? Not much.”

Sunshine advocates in the state legislature are pushing to significantly strengthen that “not much.” State Senator Stephen Brewer and state Rep. Antonio Cabral figured, if you can't get public servants to behave out of respect for the law, why not use their wallets to beat them into line?

State law mandates that all meetings of government bodies be held in public (the legislature, which does its best arm-twisting in closed-door caucus, is exempt). The Open Meeting Law forbids officials from gathering “to discuss or act upon a matter over which the govern-

mental body has supervision, control, jurisdiction or advisory power.” Enforcement can be spotty. Punishment for engaging in illegal governmental meetings maxes out with fines of \$1,000 per violation, and those fines are assessed against the body itself, not the democracy-haters responsible for breaking the law.

Under the legislation filed by Brewer and Cabral, fines could also be levied against each individual who takes part in an illegal deliberation. At \$500 per violation, habitual lawbreakers could see their personal stake in transparency rise quite quickly.

“The spirit of openness has to be maintained,” Brewer says. “At some point

legislation would change the way that the state enforces the open meeting statute. Currently, complaints are referred to local DAs' offices, where, Brewer says, they must compete with violent crimes for attention and resources; often, complaints about good government get pushed to the side. His bill would take responsibility for investigating and prosecuting open meeting crimes out of the DAs' offices, and instead place that power in the hands of a newly created Open Meeting Law Board within the attorney general's office.

Not unexpectedly, the prospect of increased personal liability, combined with a streamlined prosecutorial mechanism, has generated unease amongst the local

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or another, we're all made uncomfortable by the media, but it should be that way—the media should let people know what they're paying for. People pay for government. It's not my government. It's the people's government.”

“A personal fine would be a positive step,” adds Boston City Councilor Felix Arroyo, a frequent—and vocal—critic of closed-door government. “Now, if somebody violates the law, the public pays. It doesn't make any sense. The person who violates the law should pay for it, not the taxpayers.”

“Many other states have personal penalties where there are willful violations—clear, intentional violations,” Wilmot explains. Regarding officials' assumptions that they can violate sunshine laws and have not much happen, she says, “A \$1,000 fine against a body is indeed not much, and it rarely gets assessed. This bill deals with that, and it will change those conversations substantially.”

In addition to slapping individual violators with fines, Brewer and Cabral's

officials whom the law is targeting; both the Massachusetts Association of School Committees and the City Solicitors and Town Counsel Association have publicly opposed the legislation.

Still, a marked rise in Open Meeting Law complaints over recent years, combined with an emerging attitude of legal cuteness (in Boston, both the city council and the BRA claimed that their meetings, for one reason or another, weren't actually meetings), would seem to indicate that something, other than the occasional harshly worded letter, is needed to remind government officials that the law is the law.

“Some want to have a sense of, ‘We should decide what to do before we get in front of the people,’” Arroyo says. “I don't understand it—business that affects the general public should never happen in private.”

“People will be mindful that business has to be conducted in a public manner,” Brewer argues. “Sunlight is the best disinfectant for a democracy.” ☒