HOUSE DOCKET, NO. 1112 FILED ON: 1/19/2011

HOUSE . . . . . No. 1734

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F. D. Cabral

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the open meeting law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F. D. Cabral	*13th Bristol*

HOUSE DOCKET, NO. 1112 FILED ON: 1/19/2011

HOUSE . . . . . No. 1734

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1734) of Antonio F. D. Cabral relative to the open meeting law. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

An Act relative to the open meeting law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Section 18 of chapter 30A of the Massachusetts General Laws as appearing in the 2008 official edition and amended by chapter 28 of the acts of 2009 is hereby amended by deleting the following:-

(d) Intentional Violation – Any act or omission by a public body, or any member thereof, in knowing violation of the open meeting law.

SECTION 2: Section 23(c) of said chapter is hereby amended by deleting the following:-

Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional.

And in subsection (c)(4), the following:

SECTION 3: Section 23(c)(7) of said chapter is hereby amended by deleting the following:-

(7) prescribe other appropriate action.

And replacing it with the following:-

(7) reprimanding a member or members of a public body, said reprimand to be a public record; or

(8) prescribe other appropriate action.

SECTION 4: Section 23(f) of said chapter is hereby amended by inserting at the end:-

19 Such order may invalidate any action taken at any meeting at which any provision of this
20 section has been violated, provided that such complaint is filed within twenty-one days of the
21 date when such action is made public.

22 Any such order may also, when appropriate, require the records of any such meeting to
23 be made public, unless it shall have been determined by such justice that the maintenance of
24 secrecy with respect to such records is authorized. The remedy created hereby is not exclusive,
25 but shall be in addition to every other available remedy. Such order may also include
26 reinstatement without loss of compensation, seniority, tenure or other benefits for any employee
27 discharged at a meeting or hearing held in violation of the provisions of this section. In an action
28 brought by three or more registered voters, such order may also require the public body to
29 reimburse said voters reasonable attorney's fees and court costs.

30 Such order may also include a civil fine against the public body in an amount no greater
31 than one thousand dollars for each meeting held in violation of this section and/or a civil fine of
32 not more than two hundred dollars for each violation against any individual member of a public
33 body who has already been fined pursuant to this section or received a reprimand pursuant to
34 section 23(c)(7). A fine shall not be imposed against any member of the public body who is
35 recorded in opposition to the act that is found to be in violation of the open meeting law. A
36 penalty against an individual member shall not be reimbursable with public funds.

37 SECTION 5: Section 23(g) of said chapter is hereby amended by adding after "body" the
38 first time it appears the following:-

39 It shall be a defense to the imposition of a penalty that the public body or any member
40 thereof, after full disclosure, acted in good faith compliance with the advice of the public body's
41 legal counsel.