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**The Maryland General Assembly
Joint Committee on Transparency and Open Government**

**Public Information Act: Briefing on Reauthorization of
Electronic Record Amendments of 2011**

December 4, 2012

**Testimony of James A. McLaughlin¹ on Behalf of the
Maryland-Delaware-District of Columbia Press Association**

The Maryland-Delaware-District of Columbia Press Association supports reauthorization of the 2011 amendments to the Public Information Act (“PIA”) regarding electronic records. It would unacceptable, we believe, to return to the era in which public bodies in Maryland could lawfully disregard the requester’s choice of format in which to receive records. Maryland was among the last states to amend its law to codify the requester’s right to receive public records in a searchable, electronic format if they exist in that format. In the fourteen months since the change went into effect (October 1, 2011), experience has shown that state agencies and local governments are able to comply with little, if any, difficulty. Nor have the predicted concerns about document integrity or “metadata” materialized in any significant way, to our knowledge.

The Press Association therefore urges the Committee to ensure that the amendments do not expire next September. Moreover, although reauthorization is the minimum needed to keep the PIA from becoming outdated, we believe additional improvements to the provision should be considered – most notably, clarifying the requester’s right to obtain records in a particular electronic format used by the public body, rather than any “searchable and analyzable” format;² and revisiting the provision that allows private contractors of the state’s Department of Assessments and Taxation to charge fees to the public with minimal oversight.³ The Press Association would be pleased to work with the Committee members and staff on these issues, as well as any others related to open government in Maryland. Thank you.

¹ Associate Counsel, The Washington Post.

² Md. State Government Article, § 10-620(a)(2)(i).

³ *Id.* § 10-620(a)(2)(ii). The Press Association and other groups raised concerns about this provision in their testimony last year, noting that it seems to open the door to use of PIA fees as a source of profit for private entities, rather than recouping actual costs.