
By: **Delegates Smigiel, Barkley, Boutin, Costa, Elmore, McComas, Myers, Oaks, Shank, Sophocleus, and Sossi**
Introduced and read first time: February 13, 2004
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Open Meetings Act - Scope**

3 FOR the purpose of altering the scope of the Open Meetings Act by repealing certain
4 terms; and generally relating to the Open Meetings Act.

5 BY repealing and reenacting, with amendments,
6 Article - State Government
7 Section 10-502 and 10-503
8 Annotated Code of Maryland
9 (1999 Replacement Volume and 2003 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - State Government**

13 10-502.

14 (a) In this subtitle the following words have the meanings indicated.

15 (b) "Advisory function" means the study of a matter of public concern or the
16 making of recommendations on the matter, under a delegation of responsibility by:

17 (1) law;

18 (2) the Governor;

19 (3) the chief executive officer of a political subdivision of the State; or

20 (4) formal action by or for a public body that exercises an executive,
21 judicial, legislative, quasi-judicial, or quasi-legislative function.

22 (c) "Board" means the State Open Meetings Law Compliance Board.

23 [(d) (1) "Executive function" means the administration of:

- 1 (i) a law of the State;
- 2 (ii) a law of a political subdivision of the State; or
- 3 (iii) a rule, regulation, or bylaw of a public body.

4 (2) "Executive function" does not include:

- 5 (i) an advisory function;
- 6 (ii) a judicial function;
- 7 (iii) a legislative function;
- 8 (iv) a quasi-judicial function; or
- 9 (v) a quasi-legislative function.]

10 [(e)] (D) (1) "Judicial function" means the exercise of any power of the
11 Judicial Branch of the State government.

12 (2) "Judicial function" includes the exercise of:

- 13 (i) a power for which Article IV, § 1 of the Maryland Constitution
14 provides;
- 15 (ii) a function of a grand jury;
- 16 (iii) a function of a petit jury;
- 17 (iv) a function of the Commission on Judicial Disabilities; and
- 18 (v) a function of a judicial nominating commission.

19 (3) "Judicial function" does not include the exercise of rulemaking power
20 by a court.

21 [(f)] (E) "Legislative function" means the process or act of:

- 22 (1) approving, disapproving, enacting, amending, or repealing a law or
23 other measure to set public policy;
- 24 (2) approving or disapproving an appointment;
- 25 (3) proposing or ratifying a constitution or constitutional amendment; or
- 26 (4) proposing or ratifying a charter or charter amendment.

27 [(g)] (F) "Meet" means to convene a quorum of a public body for the
28 consideration or transaction of public business.

29 [(h)] (G) (1) "Public body" means an entity that:

- 1 (i) consists of at least 2 individuals; and
- 2 (ii) is created by:
- 3 1. the Maryland Constitution;
 - 4 2. a State statute;
 - 5 3. a county charter;
 - 6 4. an ordinance;
 - 7 5. a rule, resolution, or bylaw;
 - 8 6. an executive order of the Governor; or
 - 9 7. an executive order of the chief executive authority of a
10 political subdivision of the State.

11 (2) "Public body" includes:

12 (i) any multimember board, commission, or committee appointed
13 by the Governor, or the chief executive authority of a political subdivision of the State,
14 if the entity includes in its membership at least 2 individuals not employed by the
15 State or a political subdivision of the State; and

16 (ii) The Maryland School for the Blind.

17 (3) "Public body" does not include:

18 (i) any single member entity;

19 (ii) any judicial nominating commission;

20 (iii) any grand jury;

21 (iv) any petit jury;

22 (v) the Appalachian States Low Level Radioactive Waste
23 Commission established in § 7-302 of the Environment Article;

24 (vi) except when a court is exercising rulemaking power, any court
25 established in accordance with Article IV of the Maryland Constitution;

26 (vii) the Governor's cabinet, the Governor's Executive Council as
27 provided in Title 8, Subtitle 1 of the State Government Article, or any committee of
28 the Executive Council;

29 (viii) a local government's counterpart to the Governor's cabinet,
30 Executive Council, or any committee of the counterpart of the Executive Council;

1 (ix) the governing body of a hospital as defined in § 19-301(g) of the
2 Health - General Article; and

3 (x) a self-insurance pool that is established in accordance with
4 Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment
5 Article by:

6 1. a public entity, as defined in § 19-602 of the Insurance
7 Article; or

8 2. a county or municipal corporation, as defined in § 9-404 of
9 the Labor and Employment Article.

10 [(i)] (H) "Quasi-judicial function" means a determination of:

11 (1) a contested case to which Subtitle 2 of this title applies;

12 (2) a proceeding before an administrative agency for which Title 7,
13 Chapter 200 of the Maryland Rules would govern judicial review; or

14 (3) a complaint by the Board in accordance with this subtitle.

15 [(j)] (I) "Quasi-legislative function" means the process or act of:

16 (1) adopting, disapproving, amending, or repealing a rule, regulation, or
17 bylaw that has the force of law, including a rule of a court;

18 (2) approving, disapproving, or amending a budget; or

19 (3) approving, disapproving, or amending a contract.

20 [(k)] (J) "Quorum" means:

21 (1) a majority of the members of a public body; or

22 (2) any different number that law requires.

23 10-503.

24 (a) Except as provided in subsection (b) of this section, this subtitle does not
25 apply to:

26 (1) a public body when it is carrying out:

27 (i) [an executive function;

28 (ii)] a judicial function; or

29 [(iii)] (II) a quasi-judicial function; or

1 (2) a chance encounter, social gathering, or other occasion that is not
2 intended to circumvent this subtitle.

3 (b) The provisions of this subtitle apply to a public body when it is meeting to
4 consider:

5 (1) granting a license or permit; or

6 (2) a special exception, variance, conditional use, zoning classification,
7 the enforcement of any zoning law or regulation, or any other zoning matter.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2004.