
By: Delegates Weldon, Hubbard, G. Clagett, Levy, and Mayer Maver, Hammen, Goldwater, Barve, Benson, Boteler, Bromwell, Costa, Donoghue, Elliott, Frank, Kach, Kohl, Kullen, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, and V. Turner

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 1, 2006

CHAPTER _____

1 AN ACT concerning

2 **Open Meetings Act - ~~Executive~~ Administrative Function - Reporting**
3 **Requirement**

4 FOR the purpose of renaming the executive function exclusion under the Open
5 Meetings Act as an exclusion for administrative functions; requiring a public
6 body that adjourns recesses an open session to carry out an ~~executive~~
7 administrative function in a meeting that is not open to the public to include
8 certain information in the minutes of its next open session; and generally
9 relating to requirements for meeting to carry out an ~~executive~~ administrative
10 function under the Open Meetings Act.

11 BY repealing and reenacting, without amendments,
12 Article - State Government
13 Section 10-502(a) and (h)
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2005 Supplement)

16 BY adding to
17 Article - State Government
18 Section 10-502(b)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2005 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - State Government
3 Section 10-502(b) and (c) and 10-503
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2005 Supplement)

6 BY repealing
7 Article - State Government
8 Section 10-502(d)
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2005 Supplement)

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

13 **Article - State Government**

14 10-502.

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

16 (B) (1) "ADMINISTRATIVE FUNCTION" MEANS THE ADMINISTRATION OF:

17 (I) A LAW OF THE STATE;

18 (II) A LAW OF A POLITICAL SUBDIVISION OF THE STATE; OR

19 (III) A RULE, REGULATION, OR BYLAW OF A PUBLIC BODY.

20 (2) "ADMINISTRATIVE FUNCTION" DOES NOT INCLUDE:

21 (I) AN ADVISORY FUNCTION;

22 (II) A JUDICIAL FUNCTION;

23 (III) A LEGISLATIVE FUNCTION;

24 (IV) A QUASI-JUDICIAL FUNCTION; OR

25 (V) A QUASI-LEGISLATIVE FUNCTION.

26 [(b)] (C) "Advisory function" means the study of a matter of public concern or
27 the making of recommendations on the matter, under a delegation of responsibility
28 by:

29 (1) law;

30 (2) the Governor;

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

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

4 [(c)] (D) "Board" means the State Open Meetings Law Compliance Board.

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

6 (i) a law of the State;

7 (ii) a law of a political subdivision of the State; or

8 (iii) a rule, regulation, or bylaw of a public body.

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

10 (i) an advisory function;

11 (ii) a judicial function;

12 (iii) a legislative function;

13 (iv) a quasi-judicial function; or

14 (v) a quasi-legislative function.]

15 (h) (1) "Public body" means an entity that:

16 (i) consists of at least 2 individuals; and

17 (ii) is created by:

18 1. the Maryland Constitution;

19 2. a State statute;

20 3. a county charter;

21 4. an ordinance;

22 5. a rule, resolution, or bylaw;

23 6. an executive order of the Governor; or

24 7. an executive order of the chief executive authority of a
25 political subdivision of the State.

26 (2) "Public body" includes:

27 (i) any multimember board, commission, or committee appointed
28 by the Governor or the chief executive authority of a political subdivision of the State,

1 or appointed by an official who is subject to the policy direction of the Governor or
 2 chief executive authority of the political subdivision, if the entity includes in its
 3 membership at least 2 individuals not employed by the State or the political
 4 subdivision; and

5 (ii) The Maryland School for the Blind.

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

7 (i) any single member entity;

8 (ii) any judicial nominating commission;

9 (iii) any grand jury;

10 (iv) any petit jury;

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

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

15 (vii) the Governor's cabinet, the Governor's Executive Council as
 16 provided in Title 8, Subtitle 1 of this article, or any committee of the Executive
 17 Council;

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

20 (ix) except as provided in paragraph (1) of this subsection, a
 21 subcommittee of a public body as defined under paragraph (2)(i) of this subsection;

22 (x) the governing body of a hospital as defined in § 19-301(g) of the
 23 Health - General Article; and

24 (xi) a self-insurance pool that is established in accordance with
 25 Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment
 26 Article by:

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

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

31 10-503.

32 (a) Except as provided in [subsection (b)] SUBSECTIONS (B) AND (C) of this
 33 section, this subtitle does not apply to:

- 1 (1) a public body when it is carrying out:
- 2 (i) an ~~executive~~ ADMINISTRATIVE function;
- 3 (ii) a judicial function; or
- 4 (iii) a quasi-judicial function; or
- 5 (2) a chance encounter, social gathering, or other occasion that is not
- 6 intended to circumvent this subtitle.

7 (b) The provisions of this subtitle apply to a public body when it is meeting to

8 consider:

- 9 (1) granting a license or permit; or
- 10 (2) a special exception, variance, conditional use, zoning classification,
- 11 the enforcement of any zoning law or regulation, or any other zoning matter.

12 (C) IF A PUBLIC BODY ~~ADJOURNS~~ RECESSES AN OPEN SESSION TO CARRY OUT

13 AN ~~EXECUTIVE~~ ADMINISTRATIVE FUNCTION IN A MEETING THAT IS NOT OPEN TO

14 THE PUBLIC, THE MINUTES FOR THE PUBLIC BODY'S NEXT MEETING SHALL

15 INCLUDE:

16 ~~(1) A STATEMENT OF THE TIME, PLACE, AND PURPOSE OF THE~~

17 ~~EXECUTIVE FUNCTION SESSION; AND~~

18 ~~(2) A LIST OF THE TOPICS OF DISCUSSION, PERSONS PRESENT, AND~~

19 ~~EACH ACTION TAKEN DURING THE EXECUTIVE FUNCTION SESSION.~~

20 (1) A STATEMENT OF THE DATE, TIME, PLACE, AND PERSONS PRESENT

21 AT THE ADMINISTRATIVE FUNCTION MEETING; AND

22 (2) A PHRASE OR SENTENCE IDENTIFYING THE SUBJECT MATTER

23 DISCUSSED AT THE ADMINISTRATIVE FUNCTION MEETING.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

25 October 1, 2006.