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By: **Senators Dyson, Conway, and Hollinger**

Introduced and read first time: February 1, 2006

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Open Meetings Act - Scope - Administrative Function**

3 FOR the purpose of renaming the executive function exclusion under the Open  
4 Meetings Act as an exclusion for administrative functions; providing that the  
5 Open Meetings Act applies to a public body that conducts a meeting to consider  
6 a certain budget; requiring a public body that conducts a meeting that is limited  
7 to an administrative function to comply with certain procedural requirements;  
8 authorizing a public body that conducts a meeting that is limited to an  
9 administrative function to comply with certain provisions of the Open Meetings  
10 Act; defining certain terms; and generally relating to procedural requirements  
11 relating to meetings involving certain administrative matters.

12 BY repealing and reenacting, without amendments,  
13 Article - State Government  
14 Section 10-502(a) and (h)  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2005 Supplement)

17 BY adding to  
18 Article - State Government  
19 Section 10-502(b) and 10-506.1  
20 Annotated Code of Maryland  
21 (2004 Replacement Volume and 2005 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - State Government  
24 Section 10-502(b) and (c) and 10-503  
25 Annotated Code of Maryland  
26 (2004 Replacement Volume and 2005 Supplement)

27 BY repealing  
28 Article - State Government  
29 Section 10-502(d)

1 Annotated Code of Maryland  
2 (2004 Replacement Volume and 2005 Supplement)

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

5 **Article - State Government**

6 10-502.

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

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

9 (I) A LAW OF THE STATE;

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

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

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

13 (I) AN ADVISORY FUNCTION;

14 (II) A JUDICIAL FUNCTION;

15 (III) A LEGISLATIVE FUNCTION;

16 (IV) A QUASI-JUDICIAL FUNCTION; OR

17 (V) A QUASI-LEGISLATIVE FUNCTION.

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

21 (1) law;

22 (2) the Governor;

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

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

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

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

28 (i) a law of the State;

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

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

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

4 (i) an advisory function;

5 (ii) a judicial function;

6 (iii) a legislative function;

7 (iv) a quasi-judicial function; or

8 (v) a quasi-legislative function.]

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

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

11 (ii) is created by:

12 1. the Maryland Constitution;

13 2. a State statute;

14 3. a county charter;

15 4. an ordinance;

16 5. a rule, resolution, or bylaw;

17 6. an executive order of the Governor; or

18 7. an executive order of the chief executive authority of a  
19 political subdivision of the State.

20 (2) "Public body" includes:

21 (i) any multimember board, commission, or committee appointed  
22 by the Governor or the chief executive authority of a political subdivision of the State,  
23 or appointed by an official who is subject to the policy direction of the Governor or  
24 chief executive authority of the political subdivision, if the entity includes in its  
25 membership at least 2 individuals not employed by the State or the political  
26 subdivision; and

27 (ii) The Maryland School for the Blind.

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

29 (i) any single member entity;

- 1 (ii) any judicial nominating commission;
- 2 (iii) any grand jury;
- 3 (iv) any petit jury;
- 4 (v) the Appalachian States Low Level Radioactive Waste  
5 Commission established in § 7-302 of the Environment Article;
- 6 (vi) except when a court is exercising rulemaking power, any court  
7 established in accordance with Article IV of the Maryland Constitution;
- 8 (vii) the Governor's cabinet, the Governor's Executive Council as  
9 provided in Title 8, Subtitle 1 of this article, or any committee of the Executive  
10 Council;
- 11 (viii) a local government's counterpart to the Governor's cabinet,  
12 Executive Council, or any committee of the counterpart of the Executive Council;
- 13 (ix) except as provided in paragraph (1) of this subsection, a  
14 subcommittee of a public body as defined under paragraph (2)(i) of this subsection;
- 15 (x) the governing body of a hospital as defined in § 19-301(g) of the  
16 Health - General Article; and
- 17 (xi) a self-insurance pool that is established in accordance with  
18 Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment  
19 Article by:
- 20 1. a public entity, as defined in § 19-602 of the Insurance  
21 Article; or
- 22 2. a county or municipal corporation, as defined in § 9-404 of  
23 the Labor and Employment Article.
- 24 10-503.
- 25 (a) Except as provided in [subsection (b)] SUBSECTIONS (B) AND (C) of this  
26 section, this subtitle does not apply to:
- 27 (1) a public body when it is carrying out:
- 28 (i) an [executive] ADMINISTRATIVE function;
- 29 (ii) a judicial function; or
- 30 (iii) a quasi-judicial function; or
- 31 (2) a chance encounter, social gathering, or other occasion that is not  
32 intended to circumvent this subtitle.

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

3 (1) granting a license or permit; [or]

4 (2) a special exception, variance, conditional use, zoning classification,  
5 the enforcement of any zoning law or regulation, or any other zoning matter; OR

6 (3) A BUDGET FOR THE NEXT FISCAL YEAR, WHETHER OR NOT THE  
7 BUDGET HAS BEEN SUBMITTED TO THE PUBLIC BODY FOR APPROVAL.

8 (C) THE PROVISIONS OF § 10-506.1 OF THIS SUBTITLE APPLY TO A PUBLIC  
9 BODY WHEN IT IS CARRYING OUT AN ADMINISTRATIVE FUNCTION.

10 10-506.1.

11 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC BODY  
12 THAT CONVENES A MEETING THAT IS LIMITED TO AN ADMINISTRATIVE FUNCTION  
13 SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION.

14 (2) A PUBLIC BODY THAT CONDUCTS A MEETING THAT IS LIMITED TO AN  
15 ADMINISTRATIVE FUNCTION MAY COMPLY WITH §§ 10-505 THROUGH 10-509 OF THIS  
16 SUBTITLE INSTEAD OF THE PROVISIONS OF THIS SECTION.

17 (B) (1) (I) IF A PUBLIC BODY ANTICIPATES CONVENING A SERIES OF  
18 REGULARLY SCHEDULED MEETINGS THAT ARE LIMITED TO AN ADMINISTRATIVE  
19 FUNCTION, THE PUBLIC BODY SHALL MAKE THE SCHEDULE AVAILABLE TO THE  
20 PUBLIC BY ANY MEANS REASONABLE.

21 (II) THE SCHEDULE SHALL INCLUDE THE DATE, TIME, AND PLACE  
22 OF AN ANTICIPATED MEETING.

23 (2) A PUBLIC BODY THAT HAS ISSUED A SCHEDULE OF ANTICIPATED  
24 MEETINGS UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY, WITHOUT FURTHER  
25 PUBLIC NOTICE:

26 (I) CHANGE THE DATE, TIME, OR PLACE OF AN ANTICIPATED  
27 MEETING; OR

28 (II) CANCEL AN ANTICIPATED MEETING.

29 (3) A PUBLIC BODY SHALL DISCLOSE A CHANGE OR CANCELLATION OF  
30 AN ANTICIPATED MEETING TO ANY PERSON WHO INQUIRES WHETHER A SCHEDULE  
31 OF ANTICIPATED MEETINGS HAS BEEN CHANGED.

32 (4) A PUBLIC BODY MAY CONVENE A MEETING THAT IS LIMITED TO AN  
33 ADMINISTRATIVE FUNCTION WITHOUT PRIOR SCHEDULING OR PUBLIC NOTICE.

34 (C) IF A PUBLIC BODY CONVENES A MEETING THAT IS LIMITED TO AN  
35 ADMINISTRATIVE FUNCTION AND THAT IS NOT INCLUDED IN THE SCHEDULE

1 PREPARED UNDER SUBSECTION (B)(1) OF THIS SECTION, THE MINUTES OF THE  
2 PUBLIC BODY'S NEXT OPEN MEETING SHALL CONTAIN:

3           (1)     THE DATE, TIME, AND PLACE OF THE UNSCHEDULED MEETING;

4           (2)     A PHRASE OR SENTENCE IDENTIFYING THE SUBJECT MATTER  
5 DISCUSSED AT THE UNSCHEDULED MEETING; AND

6           (3)     THE FACT THAT THE UNSCHEDULED MEETING WAS CONDUCTED  
7 UNDER SUBSECTION (B)(4) OF THIS SECTION.

8     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2006.