
By: **Senators Dyson, Colburn, Conway, and Hollinger**
Introduced and read first time: February 1, 2006
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Open Meetings Act - ~~Scope~~ - 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; ~~providing that the~~
6 ~~Open Meetings Act applies to a public body that conducts a meeting to consider~~
7 ~~a certain budget; requiring a public body that conducts a meeting that is limited~~
8 ~~to an administrative function to comply with certain procedural requirements;~~
9 ~~authorizing a public body that conducts a meeting that is limited to an~~
10 ~~administrative function to comply with certain provisions of the Open Meetings~~
11 ~~Act; defining certain terms; and generally relating to procedural requirements~~
12 ~~relating to meetings involving certain administrative matters requiring a public~~
13 ~~body that recesses an open session to carry out an administrative function in a~~
14 ~~meeting that is not open to the public to include certain information in the~~
15 ~~minutes of its next open session; and generally relating to requirements for~~
16 ~~meeting to carry out an administrative function under the Open Meetings Act.~~

17 BY repealing and reenacting, without amendments,
18 Article - State Government
19 Section 10-502(a) and (h)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2005 Supplement)

22 BY adding to
23 Article - State Government
24 Section 10-502(b) ~~and 10-506.1~~
25 Annotated Code of Maryland

1 (2004 Replacement Volume and 2005 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - State Government

4 Section 10-502(b) and (c) and 10-503

5 Annotated Code of Maryland

6 (2004 Replacement Volume and 2005 Supplement)

7 BY repealing

8 Article - State Government

9 Section 10-502(d)

10 Annotated Code of Maryland

11 (2004 Replacement Volume and 2005 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - State Government**

15 10-502.

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

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

18 (I) A LAW OF THE STATE;

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

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

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

22 (I) AN ADVISORY FUNCTION;

23 (II) A JUDICIAL FUNCTION;

24 (III) A LEGISLATIVE FUNCTION;

25 (IV) A QUASI-JUDICIAL FUNCTION; OR

26 (V) A QUASI-LEGISLATIVE FUNCTION.

27 [(b)] (C) "Advisory function" means the study of a matter of public concern or

28 the making of recommendations on the matter, under a delegation of responsibility

29 by:

30 (1) law;

- 1 (2) the Governor;
- 2 (3) the chief executive officer of a political subdivision of the State; or
- 3 (4) formal action by or for a public body that exercises an executive,
4 judicial, legislative, quasi-judicial, or quasi-legislative function.
- 5 [(c)] (D) "Board" means the State Open Meetings Law Compliance Board.
- 6 [(d)] (1) "Executive function" means the administration of:
- 7 (i) a law of the State;
- 8 (ii) a law of a political subdivision of the State; or
- 9 (iii) a rule, regulation, or bylaw of a public body.
- 10 (2) "Executive function" does not include:
- 11 (i) an advisory function;
- 12 (ii) a judicial function;
- 13 (iii) a legislative function;
- 14 (iv) a quasi-judicial function; or
- 15 (v) a quasi-legislative function.]
- 16 (h) (1) "Public body" means an entity that:
- 17 (i) consists of at least 2 individuals; and
- 18 (ii) is created by:
- 19 1. the Maryland Constitution;
- 20 2. a State statute;
- 21 3. a county charter;
- 22 4. an ordinance;
- 23 5. a rule, resolution, or bylaw;
- 24 6. an executive order of the Governor; or
- 25 7. an executive order of the chief executive authority of a
26 political subdivision of the State.
- 27 (2) "Public body" includes:

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

7 (ii) The Maryland School for the Blind.

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

9 (i) any single member entity;

10 (ii) any judicial nominating commission;

11 (iii) any grand jury;

12 (iv) any petit jury;

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

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

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

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

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

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

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

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

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

1 10-503.

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

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

5 (i) an [executive] ADMINISTRATIVE function;

6 (ii) a judicial function; or

7 (iii) a quasi-judicial function; or

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

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

12 (1) granting a license or permit; {or}

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

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

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

19 ~~10-506.1.~~

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

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

26 ~~(B) (1) (I) IF A PUBLIC BODY ANTICIPATES CONVENING A SERIES OF~~
27 ~~REGULARLY SCHEDULED MEETINGS THAT ARE LIMITED TO AN ADMINISTRATIVE~~
28 ~~FUNCTION, THE PUBLIC BODY SHALL MAKE THE SCHEDULE AVAILABLE TO THE~~
29 ~~PUBLIC BY ANY MEANS REASONABLE.~~

30 ~~(II) THE SCHEDULE SHALL INCLUDE THE DATE, TIME, AND PLACE~~
31 ~~OF AN ANTICIPATED MEETING.~~

32 ~~(2) A PUBLIC BODY THAT HAS ISSUED A SCHEDULE OF ANTICIPATED~~
33 ~~MEETINGS UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY, WITHOUT FURTHER~~
34 ~~PUBLIC NOTICE.~~

1 (4) CHANGE THE DATE, TIME, OR PLACE OF AN ANTICIPATED
2 MEETING; OR

3 (II) CANCEL AN ANTICIPATED MEETING.

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

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

9 (C) IF A PUBLIC BODY CONVENES A MEETING THAT IS LIMITED TO AN
10 ADMINISTRATIVE FUNCTION AND THAT IS NOT INCLUDED IN THE SCHEDULE
11 PREPARED UNDER SUBSECTION (B)(4) OF THIS SECTION, THE MINUTES OF THE
12 PUBLIC BODY'S NEXT OPEN MEETING SHALL CONTAIN:

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

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

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

18 (C) IF A PUBLIC BODY RECESSES AN OPEN SESSION TO CARRY OUT AN
19 ADMINISTRATIVE FUNCTION IN A MEETING THAT IS NOT OPEN TO THE PUBLIC, THE
20 MINUTES FOR THE PUBLIC BODY'S NEXT MEETING SHALL INCLUDE:

21 (1) A STATEMENT OF THE DATE, TIME, PLACE, AND PERSONS PRESENT
22 AT THE ADMINISTRATIVE FUNCTION MEETING; AND

23 (2) A PHRASE OR SENTENCE IDENTIFYING THE SUBJECT MATTER
24 DISCUSSED AT THE ADMINISTRATIVE FUNCTION MEETING.

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