

**Health and Government Operations Committee**

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**Testimony in SUPPORT of HB 235**  
***Open Meetings Act - Definition - Administrative Function***  
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This bill will add clarity to the law by making personnel discussions consistent by any public body.

In 2005, the Open Meetings Compliance Board completed a study of the “executive” function at the request of the General Assembly. It identified several problem areas and noted that the statute did not clearly define what was renamed the “administrative function.”

For 15 years since, the OMCB has had to explain to complainants when the administrative function clashes with the Personnel exception in the Open Meetings Act. If an agency executive position is defined in statute, the OMCB has repeatedly held this could be either an administrative act following a statute, or a regular Personnel matter.

The Personnel exception in the law applies only to identifiable people, not to job descriptions, classes of employees, or policy decisions. All of those already are subject to transparency requirements. The bill simply brings consistency to the law. It makes no sense to have two classes of public employees when it comes to public business concerning them. The OMCB already advises using the Personnel exception.

The Act’s imprecision has never been resolved. However, the Open Meetings Act contains specific administrative function exclusions. The bill adds another, limited exclusion. The OMCB will no longer have to explain the conflict in its opinions.

The public has the right to know what is going on with the senior staff in any jurisdiction or agency. While the public may never see the details of a particular, individual discussion, it will be informed of the fact that there is a discussion of the Executive Director, County Executive or the Town Manager. This is far more information than is now available, since a public body can hold a secret “administrative” gathering, post no minutes, and refuse to answer Public Information Act requests.

A fear of extra meetings is based on speculation. As a practical matter, most jurisdictions hold their personnel discussions during their regular meetings. Further, public bodies have a limited number of direct reports: town managers, county administrators and department heads, some executive positions. The Act has a mechanism for any urgent meeting.

This does not apply to lower-level staff who report to someone other than the public body itself.

Finally, it’s necessary to start somewhere. If it turns out to be a burden on all parties, future legislative action can fine-tune the language based on documented experience rather than fearful guesswork.

I request a favorable report.

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