

time and location of the meeting to the public under (c). *Cnty. & Labor United for Balt. Charter Comm. v. Balt. City Bd. of Elections*, 377 Md. 183, 832 A.2d 804 (2003).

No constitutional right to privacy in the hiring process. — County commissioners have the discretion to deal with personnel matters, including applications for employment, in open session; a job applicant has no constitutional right to privacy in the hiring process. 80 Op. Att'y Gen. 241 (Dec. 20, 1995).

No distinction between formal and informal meetings. — Provisions requiring open meetings make no distinction between formal and informal meetings of the public body. *City of New Carrollton v. Rogers*, 287 Md. 56, 410 A.2d 1070 (1980).

Gross violation of open meeting provisions. — To give notice of a meeting of the public body, and then intentionally prevent the public from attending, would constitute a gross violation of the provisions requiring open meetings. *City of New Carrollton v. Rogers*, 287 Md. 56, 410 A.2d 1070 (1980).

Open sessions for development plans. — A county board of appeals is required to conduct, in open session, its deliberations regarding consideration of a development plan, which has a very close nexus to zoning and constitutes an "other zoning matter" under § 10-503 (b) (2). *Wesley Chapel Bluemount Ass'n v. Baltimore County*, 347 Md. 125, 699 A.2d 434 (1997).

County board of education may unilaterally determine to hold open meetings. — A county board of education may determine unilaterally to conduct collective bargaining negotiations at meetings open to the public. *Carroll County Educ. Ass'n v. Board of Educ.*, 294 Md. 144, 443 A.2d 345 (1982).

Applicability of Open Meetings Act to continuing education conferences. — Neither the State nor the St. Mary's County Open Meetings Acts apply to training sessions aimed at improving interpersonal relations and leadership skills; whether either Act would apply to attendance by a quorum of county commissioners at a continuing education conference depends on the conference's topic and its relation to matters before the county commissioners. 80 Op. Att'y Gen. 241 (Dec. 20, 1995).

Applicability of Act to city's private development corporation. — City of Baltimore Development Corporation (BDC) is, in essence, a public body for the purposes of the Open Meetings Act, § 10-501 et seq. of this subtitle, and it is an instrumentality of Baltimore City for the purposes of Maryland's Public Information Act (MPIA), § 10-601 et seq. of this title. Though a private corporation, the BDC functioned as part of the City's exercise of its eminent domain powers and, therefore, constituted a public body and, since the MPIA did not require an entity be established by a statute for it to be subject to its provisions, the BDC was found to clearly act as an instrumentality of the City; therefore, the provisions of the MPIA applied to it. *City of Balt. Dev. Corp. v. Carmel Realty Assocs.*, 395 Md. 299, 910 A.2d 406 (2006).

Admission of public to juvenile facility. — The Open Meetings Act does not require the Department of Juvenile Services to admit members of the public to a juvenile facility; if the Department chooses to exercise its discretion to exclude members of the public from a facility, the Open Meetings Act would require a legislative committee to hold an open meeting elsewhere. 78 Op. Att'y Gen. 240 (1993).

Closed session was acceptable. — Municipality's vote to condemn an owner's real property constituted a proper exercise of the authority vested in that legislative body by Article 23A, § 2(b)(24) of the Code, and the municipality's city charter, with no ordinance or legislative act specific to the property being required. As such, the municipality did not violate § 10-508 of this subtitle, the Open Meetings Act, when it voted to condemn the property in a closed session. *J.P. Delphey L.P. v. Mayor of Frederick*, 396 Md. 180, 913 A.2d 28 (2006).

Applied in *2BD Assocs. v. County Comm'rs*, 896 F. Supp. 528 (D. Md. 1995).

Quoted in *Baltimore County v. Wesley Chapel Bluemount Ass'n*, 110 Md. App. 585, 678 A.2d 100 (1996); *Andy's Ice Cream, Inc. v. City of Salisbury*, 125 Md. App. 125, 724 A.2d 717 (1999), cert. denied, 353 Md. 473, 727 A.2d 382 (1999); *Handley v. Ocean Downs, LLC*, 151 Md. App. 615, 827 A.2d 961 (2003).

Cited in *Samuels v. Tschechtelin*, 135 Md. App. 483, 763 A.2d 209 (2000).

§ 10-502. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Administrative function.* — (1) "Administrative function" means the administration of:

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

(2) "Administrative function" does not include:

- (i) an advisory function;
- (ii) a judicial function;
- (iii) a legislative function;
- (iv) a quasi-judicial function; or
- (v) a quasi-legislative function.

(c) *Advisory function*. — "Advisory function" means the study of a matter of public concern or the making of recommendations on the matter, under a delegation of responsibility by:

- (1) law;
- (2) the Governor or an official who is subject to the policy direction of the Governor;
- (3) the chief executive officer of a political subdivision of the State or an official who is subject to the policy direction of the chief executive officer; or
- (4) formal action by or for a public body that exercises an administrative, judicial, legislative, quasi-judicial, or quasi-legislative function.

(d) *Board*. — "Board" means the State Open Meetings Law Compliance Board.

(e) *Judicial function*. — (1) "Judicial function" means the exercise of any power of the Judicial Branch of the State government.

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

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

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

(f) *Legislative function*. — "Legislative function" means the process or act of:

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

(g) *Meet*. — "Meet" means to convene a quorum of a public body for the consideration or transaction of public business.

(h) *Public body*. — (1) "Public body" means an entity that:

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

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

(2) "Public body" includes:

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

(ii) any multimember board, commission, or committee that:

1. is appointed by:

A. an entity in the Executive branch of State government, the members of which are appointed by the Governor, and that otherwise meets the definition of a public body under this subsection; or

B. an official who is subject to the policy direction of an entity described in item A of this item; and

2. includes in its membership at least 2 individuals who are not members of the appointing entity or employed by the State; and

(iii) the Maryland School for the Blind.

(3) "Public body" does not include:

(i) any single member entity;

(ii) any judicial nominating commission;

(iii) any grand jury;

(iv) any petit jury;

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

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

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

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

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

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

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

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

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

(i) *Quasi-judicial function.* — "Quasi-judicial function" means a determination of:

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

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

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

(j) *Quasi-legislative function.* — “Quasi-legislative function” means the process or act of:

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

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

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

(k) *Quorum.* — “Quorum” means:

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

(2) any different number that law requires. (An. Code 1957, art. 76A, § 8; 1984, ch. 284, § 1; ch. 285, § 8; 1986, ch. 396, § 1; 1991, ch. 655; 1993, ch. 5, § 1; 1994, ch. 3, § 1; 1996, ch. 10, § 1; 1997, ch. 14, § 20; ch. 70, § 4; 1998, ch. 617; 1999, ch. 34, § 7; 2004, ch. 25, § 6; ch. 440; 2006, ch. 584; 2007, ch. 5, § 7; ch. 643; 2009, chs. 60, 164.)

Effect of amendments. — Chapter 643, Acts 2007, effective July 1, 2007, added “or an official . . . the Governor” in (c)(2) and added “or an official . . . executive officer” in (c)(3).

Chapter 60, Acts 2009, enacted April 14, 2009, and effective from date of enactment, substituted “administrative” for “executive” in (c)(4); and added “or municipal” in (h)(1)(ii)3.

Chapter 164, Acts 2009, effective October 1, 2009, added (h)(2)(ii), redesignated accordingly and made related changes.

Editor’s note. — Pursuant to § 7 of ch. 5, Acts 2007, “§ 19-301” was substituted for “§ 19-301(g)” in (h)(3)(x), following the redesignations made pursuant to § 6, ch. 25, Acts 2004.

Section 4, ch. 60, Acts 2009, approved April 14, 2009, and effective from date of enactment, provides that “the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.”

Maryland Law Review. — For article, “Survey of Developments in Maryland Law, 1987-88,” see 48 Md. L. Rev. 551 (1989).

“Executive function.” — The inexact definition of “executive function” does not lend itself to a catalog of activities encompassed by the definition; in general, a public body carries out an executive function whenever (1) it is not carrying out an advisory, legislative, quasi-legislative, or quasi-judicial function; and (2) it is engaged in any part of the process of implementing a statute or other form of preexisting law. 78 Op. Att’y Gen. 275 (July 28, 1993).

The Open Meetings Act does not apply to the Commissioners of Poolesville when they are carrying out an executive function; furthermore, the Open Meetings Act does not require any type of notice if the Commissioners of Poolesville meet to carry out an executive function. 78 Op. Att’y Gen. 275 (July 28, 1993).

Increase in lottery payout deemed “legislative function.” — An increase in the prize payout to daily lottery winners made by the State Lottery Commission is the approval of a measure to set public policy and must be considered the exercise of a legislative, and not an executive, function. 64 Op. Att’y Gen. 208 (1979).

State Lottery Commission is “public body.” 64 Op. Att’y Gen. 208 (1979).

Salisbury Zoo Commission is a “public body.” — Because the Mayor and City Council exercise veto power over the decisions of the Salisbury Zoo Commission, review the budget of the Commission, subject the Commission to a yearly audit, appoint the Commission’s members, and have the authority to dissolve the Commission altogether, the Commission is a “public body” for the purposes of Open Meetings Act and the Public Information Act. *Andy’s Ice Cream, Inc. v. City of Salisbury*, 125 Md. App. 125, 724 A.2d 717 (1999), cert. denied, 353 Md. 473, 727 A.2d 382 (1999).

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University task force. — University task force relating to academics and student ath-