

SENATE, No. 781

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Makes various changes to law addressing meetings of public bodies to provide public with greater access to meetings and information about meetings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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2

1 AN ACT making various changes to the law addressing meetings of
2 public bodies and amending P.L.2002, c.91 and amending and
3 supplementing P.L.1975, c.231.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.1975, c.231 (C.10:4-7) is amended to read
9 as follows:

10 2. The Legislature finds and declares that the right of the public
11 to be present at all meetings of public bodies, and to witness in full
12 detail all phases of the deliberation, policy formulation, and
13 decision making of public bodies, is vital to the enhancement and
14 proper functioning of the democratic process; that secrecy in public
15 affairs fosters the risk of corruption and official misconduct,
16 undermines the faith of the public in government and the public's
17 effectiveness in fulfilling its role in a democratic society, and
18 hereby declares it to be the public policy of this State to insure the
19 right of its citizens to have adequate advance notice of and the right
20 to attend, and to review the minutes and recordings of, all meetings
21 of public bodies at which any business affecting the public is
22 discussed or acted upon in any way except only in those
23 circumstances where otherwise the public interest would be clearly
24 endangered or the personal privacy or guaranteed rights of
25 individuals would be clearly in danger of unwarranted invasion.

26 The Legislature further declares it to be the public policy of this
27 State to insure that the aforesaid rights are implemented pursuant to
28 the provisions of this act so that no confusion, misconstructions or
29 misinterpretations may thwart the purposes hereof.

30 The Legislature, therefore, declares that it is the understanding
31 and the intention of the Legislature that in order to be covered by
32 the provisions of this act a public body must be organized by law
33 and be collectively empowered as a multi-member voting body to
34 spend public funds or affect persons' rights; that, therefore, informal
35 or purely advisory bodies with no effective authority are not
36 covered, nor are groupings composed of a public official with
37 subordinates or advisors, who are not empowered to act by vote
38 such as a mayor or the Governor meeting with department heads or
39 cabinet members, that specific exemptions are provided for the
40 Judiciary, parole bodies, the State Commission of Investigation, the
41 Apportionment Commission and political party organization; that
42 to be covered by the provisions of this act a meeting must be open
43 to all the public body's members, and the members present must
44 intend to discuss or act on the public body's business, except that a
45 subcommittee of a public body may be subject to certain of the act's

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 provisions that address adequate notice of meetings and records of
2 meetings; and therefore, typical partisan caucus meetings and
3 chance encounters of members of public bodies are neither covered
4 by the provisions of this act, nor are they intended to be so covered.
5 (cf: P.L.1981, c.176, s.1)

6
7 2. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Public body" means a commission, authority, board,
11 council, committee or any other group of two or more persons
12 organized under the laws of this State, and collectively empowered
13 as a voting body to perform a public governmental function
14 affecting the rights, duties, obligations, privileges, benefits, or other
15 legal relations of any person, or collectively authorized to spend
16 public funds including the Legislature, but does not mean or include
17 the judicial branch of the government, any grand or petit jury, any
18 parole board or any agency or body acting in a parole capacity, the
19 State Commission of Investigation, the Apportionment Commission
20 established under Article IV, Section III, of the Constitution, or
21 any political party committee organized under Title 19 of the
22 Revised Statutes. "Public body" also means, but is not limited to,
23 an independent authority, redevelopment entity, or improvement
24 authority, as well as any quasi-governmental agency. "Public
25 body" also means, but is not limited to, the New Jersey League of
26 Municipalities, the New Jersey Association of Counties, the New
27 Jersey State Interscholastic Athletic Association, the New Jersey
28 School Boards Association, the Educational Information and
29 Resource Center, and any joint insurance fund established by two or
30 more public bodies, and any substantially similar successor
31 organization or association.

32 b. "Meeting" means and includes any gathering whether
33 corporeal or by means of communication equipment, which is
34 attended by, or open to, all of the members of a public body, held
35 with the intent, on the part of the members of the body present, to
36 discuss or act as a unit upon the specific public business of that
37 body. Meeting does not mean or include any such gathering (1)
38 attended by less than **【an effective majority of the members of】** a
39 quorum of a public body, or (2) attended by or open to all the
40 members of three or more similar public bodies at a convention or
41 similar gathering.

42 c. "Public business" means and includes all matters which
43 relate in any way, directly or indirectly, to the performance of the
44 public body's functions or the conduct of its business.

45 d. "Adequate notice" means written advance notice of at least
46 48 hours, excluding weekends and State holidays, giving the time,
47 date, location and **【**, to the extent known,**】** the agenda of any

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1 regular, special or rescheduled meeting, which notice shall
2 accurately state whether formal action may or may not be taken and
3 which shall be (1) prominently posted on the public body's Internet
4 site, if the public body has established an Internet site, and in at
5 least one public place reserved for such or similar announcements,
6 (2) mailed, telephoned, **【telegraphed】** faxed, mailed electronically,
7 or hand delivered to at least two newspapers which newspapers
8 shall be designated by the public body to receive such notices
9 because they have the greatest likelihood of informing the public
10 within the area of jurisdiction of the public body of such meetings,
11 one of which shall be the official newspaper, where any such has
12 been designated by the public body or if the public body has failed
13 to so designate, where any has been designated by the governing
14 body of the political subdivision whose geographic boundaries are
15 coextensive with that of the public body and (3) filed with the clerk
16 of the municipality when the public body's geographic boundaries
17 are coextensive with that of a single municipality, with the clerk of
18 the county when the public body's geographic boundaries are
19 coextensive with that of a single county, and with the Secretary of
20 State if the public body has Statewide jurisdiction. For any other
21 public body the filing shall be with the clerk or chief administrative
22 officer of such other public body and each municipal or county
23 clerk of each municipality or county encompassed within the
24 jurisdiction of such public body. Where annual notice or revisions
25 thereof in compliance with section 13 of this act set forth the
26 location of any meeting, no further notice shall be required for such
27 meeting, except for notice pertaining to agendas and formal action
28 on the public body's Internet site, if the body has established an
29 Internet site, and posting in at least one public place reserved for
30 such or similar announcements, transmittal to the newspapers
31 described in paragraph (2) of this subsection and to any member of
32 the public who shall have requested such notice. Notice shall not be
33 considered "adequate notice" within the meaning of this subsection
34 unless it includes the estimated starting time, as nearly so as can be
35 established, for the beginning of the portion of any meeting from
36 which the public is not excluded.

37 e. "Agenda" means the list of all items of business to be
38 discussed or voted on at a public meeting. For purposes of
39 providing adequate notice, agendas shall include each individual
40 item to be discussed or acted upon, and a brief description thereof,
41 and shall identify the names of the parties to and approximate dollar
42 amounts of any contracts, including employment contracts, to be
43 discussed or acted upon. No public body shall act upon a matter
44 that is not listed on the agenda for which notice was given 48 hours,
45 excluding weekends and State holidays, prior to the meeting. In
46 addition, a public body, upon the affirmative vote of a majority of
47 the members present at a meeting, may add an item to the agenda

1 for that meeting provided that the minutes contain a statement that
2 explains the reason for adding that item to the agenda, why the item
3 did not appear on the agenda for that meeting, and why delaying
4 consideration of the item is not in the public interest, except that the
5 Legislature may add an item to its agenda at any time.

6 f. "Subcommittee" means any subordinate committee of a
7 public body, except the Legislature, regardless of label, that is
8 formally created by that body, comprised of two or more members,
9 but less than a quorum, of the public body, and recognized by the
10 public body as a subcommittee thereof.

11 g. "Quasi-governmental agency" means any association,
12 commission, agency, authority, organization, public-private entity,
13 or any other entity, in which one or more public agencies exercise
14 substantial control as evidenced by whether the public agency, as
15 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
16 ability to review, approve, or reject the quasi-governmental
17 agency's proposals or plans, holds a beneficial interest in the quasi-
18 governmental agency's assets, is the source of funding of, or is
19 indebted to, or is a creditor of, or guarantor of the debts of, the
20 quasi-governmental agency. The term shall not include any
21 organization organized under paragraph (3) of subsection (c) of
22 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
23 that was not created by, or with the approval of, a public agency
24 solely for the purpose of assisting that public agency or any labor
25 organization or any contractor providing goods or services to a
26 public agency.

27 h. "Quorum" means a majority of the full membership of a
28 public body or of a subcommittee.

29 (cf: P.L.1981, c.176, s.2)

30
31 3. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read
32 as follows:

33 4. a. Except as provided by subsection b. of this section, or for
34 any meeting limited only to consideration of items listed in section
35 7. b., no public body, or subcommittee thereof, shall hold a meeting
36 unless adequate notice thereof has been provided to the public.

37 b. Upon the affirmative vote of **three quarters** two-thirds of
38 the members present a public body may hold a meeting
39 notwithstanding the failure to provide adequate notice if:

40 (1) such meeting is required in order to deal with matters of
41 such urgency and importance that a delay for the purpose of
42 providing adequate notice would be likely to result in substantial
43 harm to the public interest; and

44 (2) the meeting is limited to discussion of and acting with
45 respect to such matters of urgency and importance; and

46 (3) notice of such meeting is provided as soon as possible
47 following the calling of such meeting by posting written notice of

1 the same on the public body's Internet site, if the public body has
2 established an Internet site and in the public place described in
3 section 3. d. above, and also by notifying the two newspapers
4 described in section 3. d. by telephone, **[telegram,]** fax machine,
5 electronic mail, or by delivering a written notice of same to such
6 newspapers; and

7 (4) **[either (a)]** the public body could not reasonably have
8 foreseen the need for such meeting at a time when adequate notice
9 could have been provided **;** or (b) although the public body could
10 reasonably have foreseen the need for such meeting at a time when
11 adequate notice could have been provided, it nevertheless failed to
12 do so**].**

13 (cf: P.L.1975, c.231, s.4)

14

15 4. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read
16 as follows:

17 1. In addition to the notice requirements of the "Open Public
18 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
19 **[may]** shall provide electronic notice of any meeting of the public
20 body through the Internet, if the public body maintains an Internet
21 site or pages on an Internet site.

22 As used in this section, "electronic notice" means advance notice
23 available to the public via electronic transmission of at least 48
24 hours, excluding weekends and State holidays, giving the time,
25 date, location and **[, to the extent known,]** the agenda of any
26 regular, special or rescheduled meeting, which notice shall
27 accurately state whether formal action may or may not be taken at
28 such meeting.

29 As used in this section, "Internet" means the international
30 computer network of both federal and non-federal interoperable
31 packet switched data networks.

32 (cf: P.L.2002, c.91, s.1)

33

34 5. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
35 as follows:

36 7. a. Except as provided by subsection b. of this section all
37 meetings of public bodies shall be open to the public at all times.
38 Except for communications that are purely administrative or
39 procedural in nature, no member of a public body, other than the
40 Legislature, during any meeting of that public body to which the
41 public is admitted, shall communicate privately, by means of
42 communication equipment, including electronic mail, instant
43 messaging or similar technologies, including directly or indirectly
44 through staff, with any other member of the public body about any
45 matter on the agenda for that meeting, and no member shall
46 communicate privately with any other person, other than staff or
47 legal counsel, about any matter on the agenda for that meeting by

1 means of communication equipment, including electronic mail,
2 instant messaging or similar technologies. Nothing in this act shall
3 be construed to limit the discretion of a public body to permit,
4 prohibit or regulate the active participation of the public at any
5 meeting, except that a **【municipal governing】** public body **【and a**
6 **board of education】**, other than the Legislature, shall be required to
7 set aside a portion of every meeting of the **【municipal governing】**
8 public body 【or board of education, the length of the portion to be
9 determined by the municipal governing body or board of
10 education,】 for public comment prior to consideration of items on
11 the agenda by the public body at the meeting in question, with such
12 comments being limited to items on the agenda and on any
13 governmental 【or school district】 issue that a member of the public
14 feels may be of concern to and within the authority of the 【residents
15 of the municipality or school district】 public body. However, such
16 comment period may be limited solely to items listed on the agenda
17 so long as an additional public comment period is set aside at the
18 meeting at which time a member of the public may discuss any
19 issue he or she feels may be of concern to and within the authority
20 of the public body. Each member of the public who wishes to speak
21 shall be allowed to speak for at least three minutes during the
22 comment period, provided that a public body may limit the amount
23 of time that a member of the public may speak in excess of three
24 minutes. A public body, other than the Legislature, may require
25 members of the public to sign in before speaking, but only if
26 signing in is permitted up to the start of the comment period and is
27 limited to providing the person's name and municipality of
28 residence. A public body, other than the Legislature, shall permit
29 all proceedings of any public meeting to be recorded, photographed,
30 audiotaped, videotaped, broadcast or recorded for broadcast by any
31 member of the public or news organization, subject only to such
32 reasonable rules as the public body may adopt prior to the meeting
33 to minimize undue disruption to its meetings.

34 A public body, other than the Legislature, shall set aside a total
35 of at least one hour for public comments on agenda items and on
36 issues that members of the public feel may be of concern to and
37 within the authority of the public body, provided that a shorter time
38 is permissible if all members of the public wishing to comment at a
39 meeting have had the opportunity to be heard.

40 A member of the public may submit written comments
41 expressing that individual's opinion on any item on the agenda for a
42 meeting of a public body, other than the Legislature, or on any issue
43 that individual feels may be of concern to and within the authority
44 of the public body, other than the Legislature. Written comments
45 may be delivered to the public body in person, by postal mail,
46 facsimile, or electronic mail prior to the start of a meeting and in a

1 quantity sufficient to ensure that each member of the public body
2 will receive a copy thereof.

3 b. A public body may exclude the public only from that portion
4 of a meeting at which the public body discusses:

5 (1) Any matter which, by express provision of federal law or
6 State statute or rule of court shall be rendered confidential or
7 excluded from the provisions of subsection a. of this section.

8 (2) Any matter in which the release of information would
9 legally impair a right to receive funds from the Government of the
10 United States.

11 (3) Any material the disclosure of which constitutes an
12 unwarranted invasion of individual privacy such as any records,
13 data, reports, recommendations, or other personal material of any
14 educational, training, social service, medical, health, custodial,
15 child protection, rehabilitation, legal defense, welfare, housing,
16 relocation, insurance and similar program or institution operated by
17 a public body pertaining to any specific individual admitted to or
18 served by such institution or program, including but not limited to
19 information relative to the individual's personal and family
20 circumstances, and any material pertaining to admission, discharge,
21 treatment, progress or condition of any individual, unless the
22 individual concerned (or, in the case of a minor or incompetent, his
23 guardian) shall request in writing that the same be disclosed
24 publicly.

25 (4) Any collective bargaining agreement, or the terms and
26 conditions which are proposed for inclusion in any collective
27 bargaining agreement, including the negotiation of the terms and
28 conditions thereof with employees or representatives of employees
29 of the public body.

30 (5) Any matter involving the purchase, lease or acquisition of
31 real property with public funds, the setting of banking rates or
32 investment of public funds, where **[it]** public discussion could
33 adversely affect the public interest if discussion of such matters
34 were disclosed.

35 (6) Any tactics and techniques utilized in protecting the safety
36 and property of the public, provided that their disclosure could
37 impair such protection. Any investigations of violations or
38 **[possible]** probable violations of the law.

39 (7) Any **[pending or anticipated litigation or contract**
40 **negotiation]** consultation with legal counsel concerning the legal
41 rights and duties of the public body with regard to current litigation
42 or litigation likely to be filed in which the public body is, or is
43 likely to become, a party, or concerning current or anticipated
44 contract negotiations, other than in subsection b. (4) herein in which
45 the public body is, or may become a party.

1 Any matters falling within the attorney-client privilege, to the
2 extent that confidentiality is required in order for the attorney to
3 exercise his ethical duties as a lawyer.

4 (8) Any matter involving the employment, appointment,
5 termination of employment, **【terms and conditions of employment,】**
6 evaluation of the performance of, promotion or disciplining of any
7 specific **【prospective public officer or employee or current】** public
8 officer or employee, ~~prospective or current, employed or appointed~~
9 by the public body **【**, unless all the individual employees or
10 appointees whose rights could be adversely affected request in
11 writing that such matter or matters be discussed at a public
12 meeting**】**. Public bodies shall give written notice of at least two
13 business days to any officer or employee, and any adversely
14 affected individual or individuals, in advance of any proposed
15 meeting at which his or her employment, appointment, termination,
16 evaluation of the performance of, promotion or discipline may be
17 discussed. The matter or matters pertaining to him or her shall be
18 discussed in closed session unless the employee and any adversely
19 affected individual or individuals, but not a third party
20 representative, requests in writing that the matter or matters be
21 discussed in open session. This paragraph shall not apply to a
22 public body's discussions or actions relating to tenure matters.

23 (9) Any deliberations of a public body occurring after a public
24 hearing that may result in the imposition of a specific civil penalty
25 upon the responding party or the suspension or loss of a license or
26 permit belonging to the responding party as a result of an act or
27 omission for which the responding party bears responsibility.

28 c. The grounds for exclusion of the public set forth in
29 subsection b. of this section shall be construed strictly to minimize
30 instances in which meetings or portions of meetings are closed to
31 the public. The public may not be excluded from a public body's
32 discussion of actual contracts or final contracts.

33 (cf: P.L.2008, c.14, s.1)

34

35 6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
36 as follows:

37 8. No public body shall exclude the public from any meeting to
38 discuss any matter described in subsection 7. b. until the public
39 body shall first adopt a resolution, at a meeting to which the public
40 shall be admitted:

41 a. Stating as specifically as possible the **【general nature of the】**
42 subject to be discussed and the specific basis for excluding the
43 public; and

44 b. Stating as precisely as possible, the time when and the
45 circumstances under which the discussion conducted in closed
46 session of the public body can be disclosed to the public.

47 (cf: P.L.1975, c.231, s.8)

1 7. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
2 as follows:

3 9. The Legislature shall keep reasonably comprehensible
4 minutes of all its meetings showing the time and place, the members
5 present, the subjects considered, the actions taken, the vote of each
6 member, and any other information required to be shown in the
7 minutes by law, which shall be promptly available to the public to
8 the extent that making such matters public shall not be inconsistent
9 with section 7 of P.L.1975, c.231 (C.10:4-12). Each public body,
10 other than the Legislature, shall [keep reasonably comprehensible]
11 cause the public body to keep comprehensive minutes of all its
12 meetings, including any portion of a meeting from which the public
13 was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),
14 showing, at a minimum, the time and place, the members present,
15 the subjects considered, the actions taken, including all motions
16 made, the identities of the moving and seconding members, the vote
17 of each member and each member's stated reasons, if any, for his or
18 her action or vote, the identity of each member of the public who
19 spoke and a summary of what was said, and any other information
20 required to be shown in the minutes by law [, which] . Minutes
21 shall be made available to the public as soon as possible but not
22 later than 60 days after the meeting, or by the second meeting of the
23 public body occurring after the meeting for which the minutes were
24 prepared, whichever occurs later, to the extent that making such
25 matters public shall not be inconsistent with section 7 of P.L.1975,
26 c.231 (C.10:4-12). Any member of a public body, other than the
27 Legislature, who becomes aware of a meeting held in violation of
28 this act, including electronic communications among members of a
29 public body or subcommittee, constituting a quorum thereof, that do
30 not address a purely administrative matter, shall inform the
31 presiding member who shall ensure that minutes of such meetings
32 shall be made, and such electronic communications, if any, shall be
33 included with the minutes of the meeting. Each public body, other
34 than the Legislature, that possesses sound recording devices that are
35 available and functioning shall cause to be recorded by those sound
36 recording devices only the public portions of all meetings of that
37 public body, including any emergency meeting held pursuant to
38 section 4 of P.L.1975, c.231 (C.10:4-9), and shall maintain
39 possession of the recordings for a period of time to be determined
40 by the State Records Committee to permit their use in litigation, to
41 enforce the provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for
42 public access. The unedited recordings shall be promptly made
43 available to the public, but not later than the 5th business day
44 following the meeting, to the extent that making such matters public
45 shall not be inconsistent with section 7 of this act.

46 A subcommittee of a public body, other than the Legislature,
47 shall prepare reports of its meetings which shall be filed with the

1 public body pursuant to a schedule prepared by the public body,
2 except that every subcommittee shall be required to file at least one
3 report with the public body. A report shall include a statement of
4 the number of meetings of the subcommittee held since its last
5 report, the names of the members of the subcommittee, and a
6 concise statement of the matters discussed. A report of a
7 subcommittee shall be available for public access in the same
8 manner, and subject to the same limitations on access, as minutes of
9 a meeting of a public body.

10 (cf: P.L.1975, c.231, s.9)

11

12 8. Section 10 of P.L.1975, c.231 (C.10:4-15) is amended to
13 read as follows:

14 10. a. Any action taken by a public body at a meeting which
15 does not conform with the provisions of this act shall be voidable in
16 a proceeding in lieu of prerogative writ in the Superior Court, which
17 proceeding may be brought by any person within 45 calendar days
18 after the **【action sought to be voided has been made public】** date of
19 the public meeting at which the minutes memorializing the action
20 sought to be voided are approved; provided, however, that a public
21 body may take corrective or remedial action by acting de novo at a
22 public meeting held in conformity with this act and other applicable
23 law regarding any action which may otherwise be voidable pursuant
24 to this section; and provided further that any action for which
25 advance published notice of at least 48 hours, excluding weekends
26 and State holidays, is provided as required by law shall not be
27 voidable solely for failure to conform with any notice required in
28 this act.

29 b. Any party, including any member of the public, may
30 institute a proceeding in lieu of prerogative writ in the Superior
31 Court to challenge any action taken by a public body on the grounds
32 that such action is void for the reasons stated in subsection a. of this
33 section, and if the court shall find that the action was taken at a
34 meeting which does not conform to the provisions of this act, the
35 court shall declare such action void. Any party, other than a public
36 body, that prevails in an action brought pursuant to this section may
37 be awarded the amount of reasonable attorney's fees incurred in
38 bringing the action. The cost of any attorney's fee awarded by the
39 court shall be paid by the public body.

40 (cf: P.L.1975, c.231, s.10)

41

42 9. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to
43 read as follows:

44 11. Any person, including a member of the public, may apply to
45 the Superior Court for injunctive orders or other remedies to insure
46 compliance with the provisions of this act, and the court shall issue
47 such orders and provide such remedies as shall be necessary to

1 insure compliance with the provisions of this act. Any party, other
2 than a public body, that prevails in an action brought pursuant to
3 this section, may be awarded the amount of reasonable attorney's
4 fees incurred in bringing the action. The cost of any attorney's fee
5 awarded by the court shall be paid by the public body.

6 (cf: P.L.1975, c.231, s.11)

7
8 10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
9 read as follows:

10 12. Any person who knowingly violates any of the foregoing
11 sections of this act shall be fined ~~【\$100.00】~~ \$250.00 for the first
12 offense and no less than ~~【\$100.00 nor more than】~~ \$500.00 for any
13 subsequent offense ~~【, recoverable by the State by】~~ . A fine shall be
14 paid by the individual found to have committed the violation out of
15 that individual's personal funds. Under no circumstances shall
16 public funds be used to pay a fine or to reimburse a person who has
17 paid, or will pay, a fine for the cost of that fine. The Attorney
18 General or county prosecutor, or any member of the public, shall
19 have standing to bring an action in Superior Court to prove that a
20 violation of P.L.1975, c.231 (C.10:4-6 et seq.) has occurred.

21 An action may be brought in a summary proceeding under 【"the
22 penalty enforcement law" (N.J.S.2A:58-1 et seq.)】 the "Penalty
23 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
24 The Superior Court shall have jurisdiction to enforce said penalty
25 upon complaint of the Attorney General or the county prosecutor ,or
26 any member of the public. Whenever a member of a public body, or
27 any member of the staff of the public body, believes that a meeting
28 of such body is being held in violation of the provisions of this act,
29 he shall immediately state this at the meeting together with specific
30 reasons for his belief which shall be recorded in the minutes of that
31 meeting, and if the meeting is one from which the public is
32 excluded, the member's or staff member's statement and reasons
33 shall also be announced at and recorded in the minutes of the next
34 meeting of the public body at which the public is not excluded.
35 Whenever such a member's or staff member's objections to the
36 holding of such meeting are overruled by the majority of those
37 present, such a member or staff member may continue to participate
38 at such meeting without penalty provided he has complied with the
39 duties imposed upon him by this section.

40 (cf: P.L.1994, c.58, s.41)

41
42 11. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
43 read as follows:

44 13. At least once each year, within 7 days following the annual
45 organization or reorganization meeting of a public body, or if there
46 be no such organization or reorganization meeting in the year, then
47 by not later than January 10 of such year, every public body shall

1 post and maintain posted throughout the year on the public body's
2 Internet site, if the public body has established an Internet site, and
3 in the place reserved for such or similar announcements described
4 in subsection 3. d. (1), mail to the newspapers described in
5 subsection 3. d. (2), submit to the persons described in subsection 3.
6 d. (3), for the purpose of public inspection a schedule of the regular
7 meetings of the public body to be held during the succeeding year.
8 Such schedule shall contain the location of each meeting to the
9 extent it is known, and the time and date of each meeting. In the
10 event that such schedule is thereafter revised, the public body,
11 within 7 days following such revision, shall post, mail and submit
12 such revision in the manner described above.
13 (cf: P.L.1975, c.231, s.13)

14
15 12. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
16 read as follows:

17 14. Any person may request that a public body mail or
18 electronically mail to him, at his option, notice of agendas of all
19 meetings, copies of any regular meeting schedule or revision
20 described in section 13 of this act and any advance written notice
21 described in subsection 3. d. of this act of any regular, special or
22 rescheduled meeting of such body, and upon prepayment by such
23 person of a reasonable sum, if any has been fixed by resolution of
24 the public body to cover the costs of providing such notice, the
25 public body shall mail to such person written advance notice of all
26 of its meetings within the time prescribed by subsection 3. d. herein,
27 subject only to the exceptions set forth in subsection 4. b. herein.
28 Such resolution may provide that notice requested by the news
29 media shall be mailed to such news media free of charge. If a
30 person requests advance written notice by electronic mail, no
31 payment shall be required. All requests for notices made under this
32 section shall terminate at midnight on December 31 of each year,
33 but shall be subject to renewal upon a new request to the public
34 body.

35 (cf: P.L.1975, c.231, s.14)

36
37 13. (New section) In the case of State agencies, other than the
38 Legislature, the Secretary of State, through the Department of State,
39 shall create and maintain an Internet site for the posting of
40 information, including the time, date, location, and purpose, of
41 public hearings and meetings of State agencies. Each State agency
42 shall promptly notify the Secretary of State and submit the
43 necessary information concerning that agency's public hearings and
44 meetings. The secretary shall maintain on that site an electronic
45 public bulletin board that includes a monthly calendar consisting of
46 the meeting notices and agendas of all State agencies, boards and
47 commissions. The public bulletin board shall also include links to

1 other information of interest to the public, including, but not limited
2 to, Executive Branch press releases, State budget information,
3 bidding opportunities, election law enforcement information, and
4 financial and ethics disclosure information. The Internet site
5 created pursuant to this section shall also post information that is
6 provided to the Secretary of State by a public body pursuant to
7 section 16 of P.L. , c. (C.) (pending before the Legislature
8 as this bill). All information posted pursuant to this section shall
9 remain posted for a period of time determined by the State Records
10 Committee.

11

12 14. (New section) At least quarterly, a public body, other than
13 the Legislature, shall conduct a review of the minutes of any
14 previous meeting when any part has been withheld from public
15 access. The review shall determine whether any part of any minutes
16 that have been withheld from public access can now be made
17 accessible to the public. If the public body determines that any part
18 of previously withheld minutes can now be disclosed to the public,
19 it shall make that part thereof accessible to the public.

20

21 15. (New section) In addition to any other penalties imposed by
22 law, an appointed member of a public body may be removed from
23 the public body by the appointing authority because of two or more
24 violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
25 significant denial of the public's right of access as provided by that
26 act upon a determination by a court of competent jurisdiction that a
27 denial of access was significant.

28

29 16. (New section) a. Every public body, other than the
30 Legislature, that maintains or publishes an Internet site, or
31 maintains or publishes web pages on an Internet site operated by a
32 government or non-public entity, shall have posted on that site: the
33 public body's annual schedule of regular meetings and its agendas
34 of those meetings and revisions thereto; notice of any meeting held
35 without adequate notice pursuant to one of the exceptions to the
36 adequate notice requirement listed in subsection b. of section 4 of
37 P.L.1975, c.231 (C.10:4-9); the minutes, prepared pursuant to
38 section 9 of P.L.1975, c.231 (C.10:4-14), of each meeting of the
39 public body, including the minutes of the closed portion of any
40 meeting to the extent that those minutes have been made available
41 to the public, which shall remain posted on the site for a period of at
42 least five years from the date of posting; resolutions and ordinances,
43 to the extent they are not already set forth in the minutes; any
44 resolution adopted by the public body for the purpose of complying
45 with the provisions of section 8 of P.L.1975, c.231 (C.10:4-13),
46 which shall remain posted on the site for a period of at least five

1 years from the date of posting; and, in the case of municipalities
2 and counties, their ordinances.

3 b. A public body that does not maintain or publish an Internet
4 site and does not maintain or publish web pages on an Internet site
5 operated by a government or non-public entity shall promptly
6 provide the information specified in subsection a. of this section to
7 the Secretary of State for posting on the Internet site created
8 pursuant to section 13 of P.L. , c. (C.) (pending before the
9 Legislature as this bill). For the purposes of P.L.1975, c. 231
10 (C.10:4-6 et seq.), the Internet site to which the information is
11 submitted shall be deemed established by each submitting public
12 body.

13 c. A public body that is subject to subsection a. of this section
14 may comply therewith by providing the information specified in
15 subsection a. of this section to the Secretary of State and providing
16 a link thereto on its own website.

17 d. Public bodies that maintain an Internet site or pages on that
18 site pursuant to this section shall provide any requestor with free
19 paper copies of any information that is required to be posted on the
20 Internet site but is not so posted.

21 e. All information posted pursuant to this section shall remain
22 posted for a period of time determined by the State Records
23 Committee.

24
25 17. (New section) When a public body provides information on
26 the Internet, it shall make a reasonable effort to make the existence
27 and location of its site or pages known to members of the public
28 within its jurisdiction by, at a minimum, including such information
29 in its required written public notices, agendas, and minutes and by
30 announcing it at its public meetings.

31
32 18. (New section) A public body shall determine whether
33 meetings of subcommittees shall be open to the public. For a
34 meeting of a subcommittee that will be open to the public, the
35 public body shall provide adequate notice of that meeting.

36 A public body shall keep reports of meetings of subcommittees
37 in the manner required by section 9 of P.L.1975, c.231 (C.10:4-14);
38 however, other requirements applicable to meetings of public
39 bodies shall not apply to meetings of subcommittees.

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41 19. This act shall take effect on the 120th day after the date of
42 enactment.

STATEMENT

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This bill revises the “Senator Byron M. Baer Open Public Meetings Act,” N.J.S.A.10:4-6 et seq., to provide greater public access to meetings of public bodies and to information about those meetings. The bill clarifies and expands the public’s right to receive notice of meetings of public bodies, to be present at such meetings and, under certain circumstances, to be heard at meetings, as well as to have access to minutes of meetings. It extends the scope of the act to apply certain of its provisions to subcommittees and to include certain quasi-governmental entities. The bill also addresses issues relating to communications among members of a public body, the recording of meetings, the posting of meeting-related information on the Internet, the use of closed sessions, and penalties for violations.