

# ASSEMBLY, No. 1292

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

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**SYNOPSIS**

Requires public body to publish notice of public meeting on official Internet website.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning adequate notice for public meetings, amending  
2 P.L.1975, c.231 and repealing P.L.2002, c.91.

3

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

6

7 1. 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  
15 other legal relations of any person, or collectively authorized to  
16 spend public funds including the Legislature, but does not mean or  
17 include the judicial branch of the government, any grand or petit  
18 jury, any parole board or any agency or body acting in a parole  
19 capacity, the State Commission of Investigation, the  
20 Apportionment Commission established under Article IV, Section  
21 III, of the Constitution, or any political party committee organized  
22 under Title 19 of the Revised Statutes.

23 b. "Meeting" means and includes any gathering whether  
24 corporeal or by means of communication equipment, which is  
25 attended by, or open to, all of the members of a public body, held  
26 with the intent, on the part of the members of the body present, to  
27 discuss or act as a unit upon the specific public business of that  
28 body. Meeting does not mean or include any such gathering (1)  
29 attended by less than an effective majority of the members of a  
30 public body, or (2) attended by or open to all the members of three  
31 or more similar public bodies at a convention or similar gathering.

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

35 d. "Adequate notice" means written advance notice of at least  
36 48 hours, giving the time, date, location and, to the extent known,  
37 the agenda of any regular, special or rescheduled meeting, which  
38 notice shall accurately state whether formal action may or may not  
39 be taken and which shall be (1) prominently posted in at least one  
40 public place reserved for such or similar announcements, (2)  
41 mailed, telephoned, telegrammed, sent by electronic mail or fax, or  
42 hand delivered to at least two newspapers which newspapers shall  
43 be designated by the public body to receive such notices because  
44 they have the greatest likelihood of informing the public within the  
45 area of jurisdiction of the public body of such meetings, one of

**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 which shall be the official newspaper, where any such has been  
2 designated by the public body or if the public body has failed to so  
3 designate, where any has been designated by the governing body of  
4 the political subdivision whose geographic boundaries are  
5 coextensive with that of the public body, ~~and~~ (3) filed with the  
6 clerk of the municipality when the public body's geographic  
7 boundaries are coextensive with that of a single municipality, with  
8 the clerk of the county when the public body's geographic  
9 boundaries are coextensive with that of a single county, and with  
10 the Secretary of State if the public body has Statewide jurisdiction,  
11 and (4) posted the required information on the official Internet  
12 website of the public body, if one exists, in accordance with the  
13 applicable deadlines and standards set forth in this section. For any  
14 other public body the filing shall be with the clerk or chief  
15 administrative officer of such other public body and each municipal  
16 or county clerk of each municipality or county encompassed within  
17 the jurisdiction of such public body. Where annual notice or  
18 revisions thereof in compliance with section 13 of this act set forth  
19 the location of any meeting, no further notice shall be required for  
20 such meeting.

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

22

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

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

29 b. Upon the affirmative vote of three quarters of the members  
30 present a public body may hold a meeting notwithstanding the  
31 failure to provide adequate notice if:

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

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

38 (3) notice of such meeting is provided as soon as possible  
39 following the calling of such meeting by posting written notice of  
40 the same in the public place described in section 3. d. above, and  
41 also by notifying the two newspapers described in section 3. d., by  
42 telephone, telegram, electronic mail, or fax, or by delivering a  
43 written notice of same to such newspapers, and by posting the  
44 notice on the official Internet website of the public body, if one  
45 exists; and

46 (4) either (a) the public body could not reasonably have foreseen  
47 the need for such meeting at a time when adequate notice could

1 have been provided; or (b) although the public body could  
2 reasonably have foreseen the need for such meeting at a time when  
3 adequate notice could have been provided, it nevertheless failed to  
4 do so.

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

6

7 3. The following sections are repealed:

8 Sections 1 and 2 of P.L.2002, c.91 (C.10:4-9.1 et seq.).

9

10 4. This act shall take effect immediately.

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#### STATEMENT

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15 This bill amends the definition of “adequate notice” and the  
16 requirements for holding a public meeting in the “Senator Byron M.  
17 Baer Open Public Meetings Act” to provide that a public body must  
18 post the required information on the official Internet website of the  
19 public body, if one exists, in addition to publishing a notice in two  
20 local newspapers, and in accordance with the applicable deadlines  
21 and standards for adequate notice set forth in the definition of  
22 “adequate notice.” Currently, a public body must publish the notice  
23 in two newspapers to meet the standards for adequate notice, and no  
24 notice on the Internet is required.

25 The bill also permits a public body to deliver notice of a public  
26 meeting to a newspaper by electronic mail or fax.

27 Finally, the bill repeals sections 1 and 2 of P.L.2002, c.91  
28 (C.10:4-9.1 et seq.), which permitted a public body to post a notice  
29 of a public meeting on its Internet website in addition to publishing  
30 the notice in two newspapers, but did not require the Internet notice  
31 to be posted.