

ASSEMBLY, No. 2186

STATE OF NEW JERSEY 215th LEGISLATURE

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Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires a public body to record public meetings and post proceedings on its Internet website.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/17/2012)

1 AN ACT concerning minutes of meetings of public bodies and
2 amending P.L.1975, c.231

3

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

6

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

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

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

28 The Legislature, therefore, declares that it is the understanding
29 and the intention of the Legislature that in order to be covered by
30 the provisions of this act a public body must be organized by law
31 and be collectively empowered as a multi-member voting body to
32 spend public funds or affect persons' rights; that, therefore, informal
33 or purely advisory bodies with no effective authority are not
34 covered, nor are groupings composed of a public official with
35 subordinates or advisors, who are not empowered to act by vote
36 such as a mayor or the Governor meeting with department heads or
37 cabinet members, that specific exemptions are provided for the
38 Judiciary, parole bodies, the State Commission of Investigation, the
39 Apportionment Commission and political party organization; that
40 to be covered by the provisions of this act a meeting must be open
41 to all the public body's members, and the members present must
42 intend to discuss or act on the public body's business; and
43 therefore, typical partisan caucus meetings and chance encounters
44 of members of public bodies are neither covered by the provisions

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 of this act, nor are they intended to be so covered.
2 (cf: P.L.1981, c.176, s.1)

3

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

6 3. As used in this act:

7 a. "Public body" means a commission, authority, independent
8 authority, board, council, committee, school district, or any other
9 group of two or more persons organized under the laws of this
10 State, and collectively empowered as a voting body to perform a
11 public governmental function affecting the rights, duties,
12 obligations, privileges, benefits, or other legal relations of any
13 person, or collectively authorized to spend public funds including
14 the Legislature, but does not mean or include the judicial branch of
15 the government, any grand or petit jury, any parole board or any
16 agency or body acting in a parole capacity, the State Commission of
17 Investigation, the Apportionment Commission established under
18 Article IV, Section III, of the Constitution, or any political party
19 committee organized under Title 19 of the Revised Statutes.

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

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

32 d. "Adequate notice" means written advance notice of at least
33 48 hours, giving the time, date, location and, to the extent known,
34 the agenda of any regular, special or rescheduled meeting, which
35 notice shall accurately state whether formal action may or may not
36 be taken and which shall be (1) prominently posted in at least one
37 public place reserved for such or similar announcements, (2)
38 mailed, telephoned, telegraphed, or hand delivered to at least two
39 newspapers which newspapers shall be designated by the public
40 body to receive such notices because they have the greatest
41 likelihood of informing the public within the area of jurisdiction of
42 the public body of such meetings, one of which shall be the official
43 newspaper, where any such has been designated by the public body
44 or if the public body has failed to so designate, where any has been
45 designated by the governing body of the political subdivision whose
46 geographic boundaries are coextensive with that of the public body
47 and (3) filed with the clerk of the municipality when the public
48 body's geographic boundaries are coextensive with that of a single

1 municipality, with the clerk of the county when the public body's
2 geographic boundaries are coextensive with that of a single county,
3 and with the Secretary of State if the public body has Statewide
4 jurisdiction. For any other public body the filing shall be with the
5 clerk or chief administrative officer of such other public body and
6 each municipal or county clerk of each municipality or county
7 encompassed within the jurisdiction of such public body. Where
8 annual notice or revisions thereof in compliance with section 13 of
9 this act set forth the location of any meeting, no further notice shall
10 be required for such meeting.

11 (P.L.1981, c.176, s.2)

12

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

15 9. Each public body shall keep **[reasonably comprehensible]**
16 comprehensive minutes of all its meetings, including any portion of
17 a meeting from which the public was excluded pursuant to section 7
18 of P.L.1975, c.231 (C.10:4-12), showing, at a minimum, the time
19 and place, the members present, the subjects considered, the actions
20 taken, including all motions made, the identities of the moving and
21 seconding members, the vote of each member and each member's
22 stated reasons, if any, for his or her action or vote, the identity of
23 each member of the public who spoke and a summary of what was
24 said, and any other information required to be shown in the minutes
25 by law[, which] . Each public body shall cause to be recorded by
26 audio or video recording devices all meetings of that public body
27 and also including any emergency meeting held pursuant to section
28 4 of P.L.1975, c.231 (C.10:4-9) and shall maintain possession of the
29 recordings for at least seven years to permit their use in litigation,
30 to enforce the provisions of this act, or for public access. The
31 recordings and draft minutes, marked as such, shall be promptly
32 available to the public, either within two weeks of the meeting or at
33 least three days before the next regularly scheduled meeting,
34 whichever is sooner, to the extent that making such matters public
35 shall not be inconsistent with [section 7 of] this [act] section.

36 The minutes of a meeting of a public body shall include any
37 audio or video recording of the meeting, or any portion of a
38 meeting, made by the public body and such recording shall be
39 available to the public on the same basis as other meeting minutes.
40 However, all recordings of meetings or portions of meetings closed
41 pursuant to subsection b. of section 7 of P.L.1975, c.231 (C.10:4-
42 12) shall be deemed confidential and not a public record, except
43 that a court of competent jurisdiction may determine that disclosure
44 is necessary or proper for the enforcement of the laws of this or
45 another state of the United States. The minutes or recordings shall
46 be made available to the public by posting for at least five years, in
47 a searchable format, on the Internet website maintained by, or made
48 available to the public body.

1 When a public body provides information on the Internet, it shall
2 make a reasonable effort to make the existence and location of its
3 site or pages known to members of the public within its jurisdiction
4 by, at a minimum, including such information in its required written
5 public notices, agendas, and minutes and by announcing it at its
6 public meetings.

7 A public body shall provide any requester with free copies of any
8 information that is required to be posted on the Internet site but is
9 not so posted.

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

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12 4. This act shall take effect 120 days following enactment.

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STATEMENT

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17 This bill revises the “Senator Byron M. Baer Open Public
18 Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.) (OPMA) and
19 requires a public body to record public meetings by audio or video
20 recording device and to post this information on its Internet
21 website. The bill requires that each public body keep
22 comprehensive minutes of all its public meetings, and that minutes
23 must include an audio or video recording of the public meeting.
24 The recordings and draft minutes must be made available to the
25 public on the Internet either within two weeks of the meeting or at
26 least three days before the next regularly scheduled meeting,
27 whichever is sooner. A public body who fails to post the required
28 information on the Internet must provide a requester with free
29 copies of such information. In addition, the bill amends the
30 definition of public body in OPMA to specify that this term
31 includes independent authorities and school districts.

32

33 Current law requires that each public body must keep reasonably
34 comprehensive minutes of all its meetings, and it does not specify
35 the method for creating such minutes, nor does the law currently
require posting of this information on the Internet.