

ASSEMBLY, No. 1640

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:
Assemblywoman HOLLY T. SCHEPISI
District 39 (Bergen and Passaic)

SYNOPSIS

Eliminates requirement that public body discuss prospective employee matter in public meeting when requested by employee.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the discussion of certain personnel matters
2 involving prospective employees by public bodies and amending
3 P.L.1975, c.231.

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

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

10 7. a. Except as provided by subsection b. of this section all
11 meetings of public bodies shall be open to the public at all times.
12 Nothing in this act shall be construed to limit the discretion of a
13 public body to permit, prohibit, or regulate the active participation
14 of the public at any meeting, except that a municipal governing
15 body and a board of education shall be required to set aside a
16 portion of every meeting of the municipal governing body or board
17 of education, the length of the portion to be determined by the
18 municipal governing body or board of education, for public
19 comment on any governmental or school district issue that a
20 member of the public feels may be of concern to the residents of the
21 municipality or school district.

22 b. A public body may exclude the public only from that portion
23 of a meeting at which the public body discusses any:

24 (1) matter which, by express provision of federal law, State
25 statute, or rule of court shall be rendered confidential or excluded
26 from the provisions of subsection a. of this section;

27 (2) matter in which the release of information would impair a
28 right to receive funds from the Government of the United States;

29 (3) material the disclosure of which constitutes an unwarranted
30 invasion of individual privacy such as any records, data, reports,
31 recommendations, or other personal material of any educational,
32 training, social service, medical, health, custodial, child protection,
33 rehabilitation, legal defense, welfare, housing, relocation,
34 insurance, and similar program or institution operated by a public
35 body pertaining to any specific individual admitted to or served by
36 an institution or program, including but not limited to, information
37 relative to the individual's personal and family circumstances, and
38 any material pertaining to admission, discharge, treatment,
39 progress, or condition of any individual, unless the individual
40 concerned (or, in the case of a minor or an incapacitated individual,
41 the individual's guardian) shall request in writing that the material
42 be disclosed publicly;

43 (4) collective bargaining agreement, or the terms and conditions
44 which are proposed for inclusion in any collective bargaining
45 agreement, including the negotiation of the terms and conditions
46 thereof with employees or representatives of employees of the
47 public body;

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 (5) matter involving the purchase, lease, or acquisition of real
2 property with public funds, the setting of banking rates, or
3 investment of public funds, if it could adversely affect the public
4 interest if discussion of the matters were disclosed;

5 (6) tactics and techniques utilized in protecting the safety and
6 property of the public, provided that their disclosure could impair
7 that protection, or investigations of violations or possible violations
8 of the law;

9 (7) pending or anticipated litigation or contract negotiation other
10 than in subsection b. (4) herein in which the public body is, or may
11 become, a party, or matters falling within the attorney-client
12 privilege, to the extent that confidentiality is required in order for
13 the attorney to exercise his ethical duties as a lawyer;

14 (8) matter involving the employment, appointment, termination
15 of employment, terms and conditions of employment, evaluation of
16 the performance of, promotion, or disciplining of any specific
17 prospective public officer or employee or current public officer or
18 employee employed or appointed by the public body, unless all the
19 current individual employees or appointees whose rights could be
20 adversely affected request in writing that the matter or matters be
21 discussed at a public meeting, but prospective officers or employees
22 may not request that such matters be discussed at a public meeting;
23 or

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

29 (cf: P.L.2013, c.103, s.57)

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31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill would eliminate the requirement that a public body
37 discuss the personnel matter of a prospective public employee or
38 officer in a public meeting, rather than a closed executive
39 discussion, when all affected prospective employees or officers
40 request a public discussion.

41 Under current law, a public body is not required to discuss
42 personnel matters of current or prospective public employees or
43 officers in meetings open to the public unless all affected current or
44 prospective employees or officers request the discussion to be
45 conducted in public. This bill would limit the requirement to
46 comply with a request for public discussion to current public
47 employees and officers and would exclude prospective public
48 employees and officers from the requirement.