

[Second Reprint]

SENATE, No. 106

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

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

As reported by the Senate Budget and Appropriations Committee on June 17, 2019, with amendments.



(Sponsorship Updated As Of: 11/8/2019)

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 to
42 be covered by the provisions of this act a meeting must be open to
43 all the public body's members, and the members present must intend

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted June 14, 2018.

²Senate SBA committee amendments adopted June 17, 2019.

1 to discuss or act on the public body's business, except that a
2 subcommittee of a public body may be subject to certain of the act's
3 provisions that address adequate notice of meetings and records of
4 meetings; and therefore, typical partisan caucus meetings and
5 chance encounters of members of public bodies are neither covered
6 by the provisions of this act, nor are they intended to be so covered.
7 (cf: P.L.1981, c.176, s.1)

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

11 3. As used in this act:

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

34 b. "Meeting" means and includes any gathering whether
35 corporeal or by means of communication equipment, which is
36 attended by, or open to, all of the members of a public body, or
37 attended by, or open to, all members of a subcommittee if the public
38 body has determined that the meetings of that subcommittee shall
39 be open to the public in accordance with section 18 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 and held with the intent, on the part of the members of the body
42 present, to discuss or act as a unit upon the specific public business
43 of that body. Meeting does not mean or include any such gathering
44 (1) attended by less than [an effective majority of the members of]
45 a quorum of a public body, or (2) attended by or open to all the
46 members of three or more similar public bodies at a convention or
47 similar gathering. Meeting does not include a chance encounter or
48 any gathering at which members of a public body or of a

1 subcommittee do not discuss or act upon the public business of that
2 public body or subcommittee.

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

6 d. "Adequate notice" means written advance notice of at least
7 48 hours, giving the time, date, location and **[**, to the extent
8 known,**]** the agenda of any regular, special or rescheduled meeting,
9 which notice shall accurately state whether formal action may or
10 may not be taken and which shall be (1) prominently posted on the
11 public body's Internet site, if the public body has established an
12 Internet site, and in at least one public place reserved for such or
13 similar announcements, (2) mailed, telephoned, **[**telegrammed**]**
14 faxed, mailed electronically, or hand delivered to at least two
15 newspapers which newspapers shall be designated by the public
16 body to receive such notices because they have the greatest
17 likelihood of informing the public within the area of jurisdiction of
18 the public body of such meetings, one of which shall be the official
19 newspaper, where any such has been designated by the public body
20 or if the public body has failed to so designate, where any has been
21 designated by the governing body of the political subdivision whose
22 geographic boundaries are coextensive with that of the public body
23 and (3) filed with the clerk of the municipality when the public
24 body's geographic boundaries are coextensive with that of a single
25 municipality, with the clerk of the county when the public body's
26 geographic boundaries are coextensive with that of a single county,
27 and with the Secretary of State if the public body has Statewide
28 jurisdiction. For any other public body the filing shall be with the
29 clerk or chief administrative officer of such other public body and
30 each municipal or county clerk of each municipality or county
31 encompassed within the jurisdiction of such public body. Where
32 annual notice or revisions thereof in compliance with section 13 of
33 this act set forth the location of any meeting, no further notice shall
34 be required for such meeting, except for notice pertaining to
35 agendas and formal action on the public body's Internet site, if the
36 body has established an Internet site, and posting in at least one
37 public place reserved for such or similar announcements, transmittal
38 to the newspapers described in paragraph (2) of this subsection and
39 to any member of the public who shall have requested such notice.
40 Notice shall not be considered "adequate notice" within the
41 meaning of this subsection unless it includes the estimated starting
42 time, as nearly so as can be established, for the beginning of the
43 portion of any meeting from which the public is not excluded.

44 e. "Agenda" means the list of all items of business to be
45 discussed or voted on at a public meeting. For purposes of
46 providing adequate notice, agendas shall include each individual
47 item to be discussed or acted upon, and a brief description thereof,
48 and shall identify the names of the parties to and approximate dollar

1 amounts of any contracts, including employment contracts ²and
2 collective bargaining agreements, for which agreements the agenda
3 shall list the number, but not the names, of employees covered
4 thereby², to be discussed or acted upon. No public body shall act
5 upon a matter that is not listed on the agenda. In addition, a public
6 body, upon the affirmative vote of a majority of the members
7 present at a meeting, may add an item to the agenda for that
8 meeting when necessary to deal with a matter of such urgency and
9 importance that a delay for the purpose of providing adequate
10 notice would be likely to result in substantial harm to the public
11 interest, and provided that the minutes contain a statement that
12 explains the reason for adding that item to the agenda, why the item
13 did not appear on the agenda for that meeting, and why delaying
14 consideration of the item would be likely to result in substantial
15 harm to the public interest, except that the Legislature may add an
16 item to its agenda at any time. Whenever a public body releases to
17 the public an agenda of a regular, special, or rescheduled meeting of
18 that public body, pursuant to this subsection, that includes a
19 reference to an attachment, appendix, or other document that is a
20 government record, the agenda shall include a statement that the
21 attachment, appendix, or other document shall be available to the
22 public for inspection, copying, or the purchase of copies. If any
23 member of the public, at least 24 hours prior to a meeting, requests
24 a copy of any attachment, appendix, or other document that is a
25 government record referenced in an agenda, the custodian thereof
26 shall send an electronic copy to the requestor. If such a request is
27 received within 24 hours prior to a meeting, an attachment,
28 appendix, or other document requested shall be made available to
29 the requestor at the meeting of the public body.

30 f. "Subcommittee" means any subordinate committee of a
31 public body, except the Legislature, regardless of label, that is
32 formally created by that body, comprised of two or more members,
33 but less than a quorum, of the public body.

34 g. "Quasi-governmental agency" means any association,
35 commission, agency, authority, organization, public-private entity,
36 or any other entity, in which one or more public agencies exercise
37 substantial control as evidenced by whether the public agency, as
38 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
39 ability to review, approve, or reject the quasi-governmental
40 agency's proposals or plans, holds a beneficial interest in the quasi-
41 governmental agency's assets, is the primary source of funding of,
42 or is indebted to, or is a creditor of, or guarantor of the debts of, the
43 quasi-governmental agency. The term shall not include any
44 organization organized under paragraph (3) of subsection (c) of
45 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
46 that was not created by, or with the approval of, a public agency
47 primarily for the purpose of assisting that public agency or any
48 labor organization or any contractor providing goods or services to

1 a public agency. However, nothing contained herein shall affect the
2 application of P.L.1975, c.231 (C.10:4-6 et seq.) to entities that
3 otherwise fall within the definition of "public body."

4 h. "Quorum" means a majority of the full membership of a
5 public body or of a subcommittee.

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

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

10 4. a. Except as provided by subsection b. of this section, or for
11 any meeting limited only to consideration of items listed in
12 subsection b. of section 7 [b.] of P.L.1975, c.231 (C.10:4-12), no
13 public body, and no subcommittee which the public body has
14 determined shall have meetings open to the public in accordance
15 with section 18 of P.L. , c. (C.) (pending before the Legislature
16 as this bill), shall hold a meeting unless adequate notice thereof has
17 been provided to the public.

18 b. Upon the affirmative vote of three-quarters of the members
19 present a public body may hold a meeting notwithstanding the
20 failure to provide adequate notice if:

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

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

27 (3) notice of such meeting is provided as soon as possible
28 following the calling of such meeting by posting written notice of
29 the same on the public body's Internet site, if the public body has
30 established an Internet site and in the public place described in
31 subsection d. of section 3 [d.] of P.L.1975, c.231 (C.10:4-8) above,
32 and also by notifying the two newspapers described in section 3. d.
33 by telephone, **[telegram,]** fax machine, electronic mail, or by
34 delivering a written notice of same to such newspapers; and

35 (4) **[either (a)]** the public body could not reasonably have
36 foreseen the need for such meeting at a time when adequate notice
37 could have been provided **;** or (b) although the public body could
38 reasonably have foreseen the need for such meeting at a time when
39 adequate notice could have been provided, it nevertheless failed to
40 do so**].**

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

42
43 4. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read
44 as follows:

45 1. In addition to the notice requirements of the "Open Public
46 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
47 **[may]** shall provide electronic notice of any meeting of the public

1 body through the Internet, if the public body maintains an Internet
2 site or pages on an Internet site.

3 As used in this section, "electronic notice" means advance notice
4 available to the public via electronic transmission of at least 48
5 hours, giving the time, date, location and **[**, to the extent known,**]**
6 the agenda of any regular, special or rescheduled meeting, which
7 notice shall accurately state whether formal action may or may not
8 be taken at such meeting.

9 As used in this section, "Internet" means the international
10 computer network of both federal and non-federal interoperable
11 packet switched data networks.
12 (cf: P.L.2002, c.91, s.1)

13
14 5. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
15 as follows:

16 7. a. Except as provided by subsection b. of this section all
17 meetings of public bodies shall be open to the public at all times.
18 Except for communications that are purely administrative or
19 procedural in nature, no member of a public body, other than the
20 Legislature, during any meeting of that public body to which the
21 public is admitted, shall communicate privately, by means of
22 communication equipment, including electronic mail, instant
23 messaging or similar technologies, including directly or indirectly
24 through staff or legal counsel, with any other member of the public
25 body about any matter on the agenda for that meeting, and no
26 member shall communicate privately with any other person, other
27 than staff ¹**[or]** ¹ legal counsel ¹, or independent consultants or
28 advisers¹, about any matter on the agenda for that meeting by
29 means of communication equipment, including electronic mail,
30 instant messaging or similar technologies. Nothing in this act shall
31 be construed to limit the discretion of a public body to permit,
32 prohibit, or regulate the active participation of the public at any
33 meeting, except that a **[municipal governing] public body [and a**
34 **board of education]**, other than the Legislature, shall be required to
35 set aside a portion of every meeting of the **[municipal governing]**
36 **public body [or board of education,** the length of the portion to be
37 determined by the municipal governing body or board of
38 education,**]** for public comment at the meeting in question, with
39 such comments being limited to items on the agenda and on any
40 governmental [or school district] issue that a member of the public
41 feels may be of concern to and within the authority of the [residents
42 of the municipality or school district] public body. A public body,
43 other than the Legislature, shall permit all proceedings of any
44 public meeting to be recorded, photographed, audiotaped,
45 videotaped, broadcast or recorded for broadcast by any member of
46 the public or news organization, subject only to such reasonable

1 rules as the public body may adopt prior to the meeting to minimize
2 undue disruption to its meetings.

3 A public body shall prepare a written policy that is intended to
4 maximize public participation and that addresses the amount of time
5 it will devote to receiving public comments at meetings and shall
6 include that written policy on each meeting agenda prepared by the
7 public body and on the public body's Internet site, if the public
8 body has established an Internet site, and in the public place
9 described in subsection d. of section 3 of P.L.1975, c.231 (C.10:4-
10 8). The Director of the Division of Local Government Services in
11 the Department of Community Affairs shall prepare guidelines for
12 public bodies that create minimum standards ensuring public
13 participation.

14 Whenever the provisions of any other law address the receipt of
15 public comments by a public body, the provisions of that law and
16 the provisions of this section shall be complied with to the
17 maximum extent possible and practical; however, the provisions of
18 the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.),
19 regarding the receipt of public comments shall be followed
20 notwithstanding the provisions of this section.

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

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

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

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

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

47 (5) matter involving the purchase, lease, or acquisition of real
48 property with public funds, the setting of banking rates, or

1 investment of public funds, if **[it]** public discussion could adversely
2 affect the public interest if discussion of the matters were disclosed;

3 (6) tactics and techniques utilized in protecting the safety and
4 property of the public, provided that their disclosure could impair
5 that protection, or investigations of violations or **[possible]**
6 probable violations of the law;

7 (7) **[pending or anticipated litigation or contract negotiation]**
8 consultation with legal counsel concerning the legal rights and
9 duties of the public body with regard to current litigation or
10 litigation likely to be filed in connection with any executed contract
11 which the public body is, or is likely to become, a party, or
12 concerning current or anticipated contract negotiations, other than
13 in subsection b. (4) herein in which the public body is, or may
14 become, a party, or matters falling within the attorney-client
15 privilege, to the extent that confidentiality is required in order for
16 the attorney to exercise his ethical duties as a lawyer;

17 (8) matter involving the employment, appointment, termination
18 of employment, **[terms and conditions of employment,]** evaluation
19 of the performance of, promotion, or disciplining of any specific
20 **[prospective public officer or employee or current]** public officer
21 or employee, prospective or current, employed or appointed by the
22 public body **[,** unless all the individual employees or appointees
23 whose rights could be adversely affected request in writing that the
24 matter or matters be discussed at a public meeting**].** Public bodies
25 shall give written notice of at least two business days to any officer
26 or employee, and any adversely affected individual or individuals,
27 in advance of any proposed meeting at which his or her
28 employment, appointment, termination, evaluation of the
29 performance of, promotion or discipline may be discussed. The
30 matter or matters pertaining to him or her shall be discussed in
31 closed session unless the officer or employee and any adversely
32 affected individual or individuals, but not a third party
33 representative, requests in writing that the matter or matters be
34 discussed in open session. This paragraph shall not apply to a
35 public body's discussions or actions relating to tenure matters if any
36 statute or collective bargaining agreement shall provide otherwise.

37 (9) deliberations of a public body occurring after a public
38 hearing that may result in the imposition of a specific civil penalty
39 upon the responding party or the suspension or loss of a license or
40 permit belonging to the responding party as a result of an act or
41 omission for which the responding party bears responsibility.

42 c. The grounds for exclusion of the public set forth in
43 subsection b. of this section shall be construed strictly to minimize
44 instances in which meetings or portions of meetings are closed to
45 the public. The public may not be excluded from a public body's
46 discussion of actual contracts or executed contracts, except that a
47 public body may go into closed session for consultations with legal

1 counsel, pursuant to paragraph (7) of subsection b. of this section,
2 when there is current litigation, or litigation is likely to be filed,
3 concerning an actual or executed contract.

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

5
6 6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
7 as follows:

8 8. No public body shall exclude the public from any meeting to
9 discuss any matter described in subsection b. of section 7 [b.] of
10 P.L.1975, c.231 (C.10:4-12) until the public body shall first adopt a
11 resolution, at a meeting to which the public shall be admitted:

12 a. Stating the **[general nature of the]** reasonably specific
13 subject to be discussed and the reasonably specific basis for
14 excluding the public; and

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

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

19
20 7. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
21 as follows:

22 9. ¹a.¹ The Legislature shall keep **[reasonably**
23 comprehensible] comprehensive¹ minutes of all ¹of¹ its meetings
24 showing the time and place, the members present, the subjects
25 considered, the actions taken, the vote of each member, and any
26 other information required to be shown in the minutes by law,
27 which shall be promptly available to the public to the extent that
28 making such matters public shall not be inconsistent with section 7
29 of P.L.1975, c.231 (C.10:4-12).

30 ¹b.¹ Each public body, other than the Legislature, shall **[keep**
31 reasonably comprehensible] **[cause the public body to]**¹ keep
32 comprehensive minutes of all its meetings, including any portion of
33 a meeting from which the public was excluded pursuant to section 7
34 of P.L.1975, c.231 (C.10:4-12), showing, at a minimum, the time
35 and place, the members present, the subjects considered, the actions
36 taken, including all motions made, the identities of the moving and
37 seconding members, the vote of each member and each member's
38 stated reasons, if any, for his or her action or vote, the identity of
39 each member of the public who spoke and a summary of what was
40 said, and any other information required to be shown in the minutes
41 by law **[, which]** .

42 Minutes shall be made available to the public as soon as possible
43 but not later than 15 ¹business¹ days after the next meeting of the
44 public body occurring after the meeting for which the minutes were
45 prepared, to the extent that making such matters public shall not be
46 inconsistent with section 7 of P.L.1975, c.231 (C.10:4-12). ¹In the
47 case of a municipality having a population of 5,000 or fewer

1 inhabitants according to the most recent federal decennial census, a
2 board of education having a total district enrollment of 500 or fewer
3 pupils, or a public authority having less than \$10 million in assets,
4 the minutes of the meeting shall be made available not later than 20
5 business days after the next subsequent meeting.

6 A public body may vote at that next subsequent meeting in favor
7 of a reasonable delay in making the minutes available due to an
8 emergency that would preclude the public body from abiding by the
9 15- or 20-day requirement, respectively. Prior to taking such vote,
10 the public body shall announce and provide a detailed explanation
11 of the reason for the delay. The public body shall include that
12 explanation in the minutes of the meeting at which the vote took
13 place.

14 As used in this subsection, “emergency” means any sudden,
15 unexpected, or unforeseeable event or condition, natural or man-
16 made, which interferes with the conduct of normal business
17 operations of a public body for three or more calendar days.
18 Without limiting the generality of the foregoing, an emergency may
19 arise when a condition such as any one or more of the following
20 arises: forces of the natural elements, fire, explosions, epidemics,
21 power failures, labor disputes, transportation failures, war, riots,
22 civil disturbances, and other acts of lawlessness or violence.

23 c.¹ Any member of a public body, other than the Legislature,
24 who becomes aware of a meeting held in violation of P.L.1975,
25 c.231 (C.10:4-6 et seq.), including electronic communications
26 among members of a public body or of a subcommittee which the
27 public body has determined shall hold meetings open to the public
28 in accordance with section 18 of P.L. , c. (C.) (pending before
29 the Legislature as this bill), 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 filed with the clerk of the public body for a period of time to be
34 determined by the State Records Committee to permit their use in
35 litigation, to enforce the provisions of P.L.1975, c.231 (C.10:4-6 et
36 seq.), or for public access.

37 ¹d.¹ Each public body ¹[, other than the Legislature,]¹ that
38 possesses sound recording devices that are available and
39 functioning shall cause to be recorded by those sound recording
40 devices only the public portions of all meetings of that public body,
41 including any emergency meeting held pursuant to section 4 of
42 P.L.1975, c.231 (C.10:4-9), and shall maintain possession of the
43 recordings for a period of time to be determined by the State
44 Records Committee to permit their use in litigation, to enforce the
45 provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for public
46 access. Sound recordings, or any video recordings, shall reflect the
47 public portions of meetings in their entirety, including the public
48 comment portions of meetings. The unedited recordings shall be

1 promptly made available to the public, but not later than the ¹**[5th]**
2 fifth¹ business day following the meeting, to the extent that making
3 such matters public shall not be inconsistent with section 7 of this
4 act. Public bodies shall only present the recordings as official and
5 authentic representations of the public meetings if presented in their
6 unedited form. Public bodies, if presenting edited versions of the
7 recording, shall conspicuously label such as an edited version and
8 shall include a notification that the official unedited recording is
9 available on request from the public body.

10 ¹e.¹ A subcommittee of a public body, other than the Legislature,
11 shall prepare reports of its meetings ¹, including any gathering that
12 would otherwise be a meeting if it were open to the public,¹ which
13 shall be filed with the public body pursuant to a schedule prepared
14 by the public body, except that every subcommittee shall be
15 required to file at least one report with the public body each quarter.
16 A report shall include a statement of the number of meetings of the
17 subcommittee held since its last report, the names of the members
18 of the subcommittee, and a concise statement of the matters
19 discussed. A report of a subcommittee shall be available for public
20 access in the same manner, and subject to the same limitations on
21 access, as minutes of a meeting of a public body. A subcommittee
22 that has given an oral report at a meeting of the public body of
23 which it is a subcommittee shall be excused from providing the
24 public body with a written report for that quarter.

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

26
27 8. Section 10 of P.L.1975, c.231 (C.10:4-15) is amended to
28 read as follows:

29 10. a. Any action taken by a public body at a meeting which
30 does not conform with the provisions of this act shall be voidable in
31 a proceeding in lieu of prerogative writ in the Superior Court, which
32 proceeding may be brought by any person within 45 calendar days
33 after the **[action sought to be voided has been made public]** date of
34 the public meeting at which the minutes memorializing the action
35 sought to be voided are approved and put online pursuant to section
36 16 of P.L. , c. (C.) (pending before the Legislature as this
37 bill); provided, however, that a public body may take corrective or
38 remedial action by acting de novo at a public meeting held in
39 conformity with this act and other applicable law regarding any
40 action which may otherwise be voidable pursuant to this section;
41 and provided further that any action for which advance published
42 notice of at least 48 hours is provided as required by law shall not
43 be voidable solely for failure to conform with any notice required in
44 this act.

45 b. Any party, including any member of the public, may
46 institute a proceeding in lieu of prerogative writ in the Superior
47 Court to challenge any action taken by a public body on the grounds

1 that such action is void for the reasons stated in subsection a. of this
2 section, and if the court shall find that the action was taken at a
3 meeting which does not conform to the provisions of this act, the
4 court shall declare such action void. Any party, other than a public
5 body, that prevails in an action brought pursuant to this section
6 shall be awarded the amount of reasonable attorney's fees incurred
7 in bringing the action. The cost of any attorney's fee awarded by
8 the court shall be paid by the public body.

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

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

13 11. Any person, including a member of the public, may apply to
14 the Superior Court for injunctive orders or other remedies to insure
15 compliance with the provisions of this act, and the court shall issue
16 such orders and provide such remedies as shall be necessary to
17 insure compliance with the provisions of this act. Any party, other
18 than a public body, that prevails in an action brought pursuant to
19 this section, shall be awarded the amount of reasonable attorney's
20 fees incurred in bringing the action. The cost of any attorney's fee
21 awarded by the court shall be paid by the public body.

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

23
24 10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
25 read as follows:

26 12. Any person who knowingly violates any of the foregoing
27 sections of this act shall be fined **[\$100.00]** \$250.00 for the first
28 offense and no less than **[\$100.00** nor more than **]** \$500.00 for any
29 subsequent offense **[**, recoverable by the State by **]** . A fine shall be
30 paid by the individual found to have committed the violation out of
31 that individual's personal funds. Under no circumstances shall
32 public funds, or contributions as defined in subsection b. of section
33 3 of P.L.1973, c.83 (C.19:44A-3) of "The New Jersey Campaign
34 Contributions and Expenditures Reporting Act," be used to pay a
35 fine or to reimburse a person who has paid, or will pay, a fine for
36 the cost of that fine. The Attorney General or county prosecutor, or
37 any member of the public, shall have standing to bring an action in
38 Superior Court to prove that a violation of P.L.1975, c.231 (C.10:4-
39 6 et seq.) has occurred.

40 An action may be brought in a summary proceeding under ["the
41 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
42 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
43 The Superior Court shall have jurisdiction to enforce said penalty
44 upon complaint of the Attorney General or the county prosecutor ,or
45 any member of the public. Whenever a member of a public body,
46 or any member of the staff of the public body, believes that a
47 meeting of such body is being held in violation of the provisions of

1 this act, he shall immediately state this at the meeting together with
2 specific reasons for his belief which shall be recorded in the
3 minutes of that meeting, and if the meeting is one from which the
4 public is excluded, the member's or staff member's statement and
5 reasons shall also be announced at and recorded in the minutes of
6 the next meeting of the public body at which the public is not
7 excluded. Whenever such a member's or staff member's objections
8 to the holding of such meeting are overruled by the majority of
9 those present, such a member or staff member may continue to
10 participate at such meeting without penalty provided he has
11 complied with the duties imposed upon him by this section.
12 (cf: P.L.1994, c.58, s.41)

13

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

16 13. At least once each year, within 7 days following the annual
17 organization or reorganization meeting of a public body, or if there
18 be no such organization or reorganization meeting in the year, then
19 by not later than January 10 of such year, every public body shall
20 post and maintain posted throughout the year on the public body's
21 Internet site, if the public body has established an Internet site, and
22 in the place reserved for such or similar announcements described
23 in subsection 3. d. (1), mail to the newspapers described in
24 subsection 3. d. (2), submit to the persons described in subsection 3.
25 d. (3), for the purpose of public inspection a schedule of the regular
26 meetings of the public body to be held during the succeeding year.
27 Such schedule shall contain the location of each meeting to the
28 extent it is known, and the time and date of each meeting. In the
29 event that such schedule is thereafter revised, the public body,
30 within 7 days following such revision, shall post, mail and submit
31 such revision in the manner described above.

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

33

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

36 14. Any person may request that a public body mail or
37 electronically mail to him, at his option, notice of agendas of all
38 meetings, copies of any regular meeting schedule or revision
39 described in section 13 of this act and any advance written notice
40 described in subsection 3. d. of this act of any regular, special or
41 rescheduled meeting of such body, and upon prepayment by such
42 person of a reasonable sum, if any has been fixed by resolution of
43 the public body to cover the costs of providing such notice, the
44 public body shall mail to such person written advance notice of all
45 of its meetings within the time prescribed by subsection 3. d. herein,
46 subject only to the exceptions set forth in subsection 4. b. herein.
47 Such resolution may provide that notice requested by the news
48 media shall be mailed to such news media free of charge. If a

1 person requests advance written notice by electronic mail, no
2 payment shall be required. All requests for notices made under this
3 section shall terminate at midnight on December 31 of each year,
4 but shall be subject to renewal upon a new request to the public
5 body.

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

7
8 13. (New section) In the case of State agencies, other than the
9 Legislature, the Secretary of State, through the Department of State,
10 shall create and maintain an Internet site for the posting of
11 information, including the time, date, location, and purpose, of
12 public hearings and meetings of State agencies. Each State agency
13 shall promptly notify the Secretary of State and submit the
14 necessary information concerning that agency's public hearings and
15 meetings. The secretary shall maintain on that site an electronic
16 public bulletin board that includes a monthly calendar consisting of
17 the meeting notices and agendas of all State agencies, boards and
18 commissions. The public bulletin board shall also include links to
19 other information of interest to the public, including, but not limited
20 to, Executive Branch press releases, State budget information,
21 bidding opportunities, election law enforcement information, and
22 financial and ethics disclosure information. The Internet site
23 created pursuant to this section shall also post information that is
24 provided to the Secretary of State by a public body pursuant to
25 section 16 of P.L. , c. (C.) (pending before the Legislature
26 as this bill). All information posted pursuant to this section shall
27 remain posted for a period of time determined by the State Records
28 Committee.

29
30 14. (New section) At least quarterly, a public body, other than
31 the Legislature, shall conduct a review of the minutes of any
32 previous meeting when any part has been withheld from public
33 access. The review shall determine whether any part of any minutes
34 that have been withheld from public access can now be made
35 accessible to the public. If the public body determines that any part
36 of previously withheld minutes can now be disclosed to the public,
37 it shall make that part thereof accessible to the public.

38
39 15. (New section) In addition to any other penalties imposed
40 by law, an appointed member of a public body may be removed
41 from the public body by the appointing authority because of two or
42 more violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
43 significant denial of the public's right of access as provided by that
44 act upon a determination by a court of competent jurisdiction that a
45 denial of access was significant.

46
47 16. (New section) a. Every public body, other than the
48 Legislature, that maintains or publishes an Internet site, or maintains or

1 publishes web pages on an Internet site operated by a government or
2 non-public entity, shall have posted on that site: the public body's
3 annual schedule of regular meetings and its agendas of those meetings
4 and revisions thereto; notice of any meeting held without adequate
5 notice pursuant to one of the exceptions to the adequate notice
6 requirement listed in subsection b. of section 4 of P.L.1975, c.231
7 (C.10:4-9); the minutes, prepared pursuant to section 9 of P.L.1975,
8 c.231 (C.10:4-14), of each meeting of the public body, including a
9 statement that the minutes of the closed portion of any meeting shall
10 be available upon request if those minutes have been deemed to be a
11 government record, as defined in section 1 of P.L.1995, c.23
12 (C.47:1A-1.1), which shall remain posted on the site for a period of at
13 least five years from the date of posting; resolutions and ordinances, to
14 the extent they are not already set forth in the minutes; any resolution
15 adopted by the public body for the purpose of complying with the
16 provisions of section 8 of P.L.1975, c.231 (C.10:4-13), which shall
17 remain posted on the site for a period of at least five years from the
18 date of posting; and, in the case of municipalities and counties, their
19 ordinances.

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

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

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

37 e. All information posted pursuant to this section shall remain
38 posted for a period of time determined by the State Records
39 Committee.

40
41 17. (New section) When a public body provides information on
42 the Internet, it shall make a reasonable effort to make the existence
43 and location of its site or pages known to members of the public
44 within its jurisdiction by, at a minimum, including such information
45 in its required written public notices, agendas, and minutes and by
46 announcing it at its public meetings.

1 18. (New section) A public body shall determine for each
2 subcommittee whether meetings of that subcommittee shall be open
3 to the public. For a meeting of a subcommittee that will be open to
4 the public, the public body shall provide adequate notice of that
5 meeting; however, other requirements applicable to meetings of
6 public bodies shall not apply to meetings of a subcommittee. A
7 subcommittee that holds meetings open to the public may exclude
8 the public only from that portion of a meeting at which the
9 subcommittee discusses matters set forth in subsection b. of section
10 7 of P.L.1975, c.231 (C.10:4-12), and if pursuant to the procedures
11 set forth in section 8 of P.L.1975, c.231 (C.10:4-13).

12 ¹**[A public body shall keep reports of meetings of subcommittees**
13 **open to the public in the manner required by section 9 of P.L.1975,**
14 **c.231 (C.10:4-14).]**¹

15

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