

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4556 and 4145

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED OCTOBER 19, 2020

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

**Assemblymen Wirths, Space, Assemblywoman McKnight, Senators
Singleton, Pou and Greenstein**

SYNOPSIS

Requires BPU to establish and maintain electronic public document search system on its website; requires BPU to provide certain notice of its meetings and hold quarterly public comment meetings.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Telecommunications and Utilities Committee.

(Sponsorship Updated As Of: 3/25/2021)

1 **AN ACT** concerning certain functions and duties of the Board of
2 Public Utilities and supplementing Title 48 of the Revised
3 Statutes and amending R.S.48:2-40.

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

7
8 1. (New section) As used in sections 1 through 4 of P.L. , c.
9 (C.) (pending before the Legislature as this bill):

10 “Board” means the Board of Public Utilities or any successor
11 agency.

12 “Contested case” shall have the same meaning as provided in
13 section 2 of P.L.1968, c.410 (C.52:14B-2).

14 “Emergency” means a period of time during which the Governor
15 has declared the existence of a public health emergency, pursuant to
16 section 3 of P.L.2005, c.222 (C.26:13-3), or a state of emergency,
17 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.).

18 “Policy matter” means a matter:

19 a. where the board conducts quasi-legislative proceedings that
20 are informational, intended to provide a forum for the expression of
21 public sentiment on a proposed agency action, or to examine broad
22 policy issues affecting entire industries or large, undefined classes
23 of people;

24 b. where the board has not established a proceeding; or

25 c. that is not the subject of a pending or impending contested
26 case.

27 “Public document search system” or “search system” means the
28 electronic public document search system established, maintained,
29 and updated, as appropriate, by the board, through the board’s
30 Internet website, pursuant to section 2 of P.L. , c. (C.)
31 (pending before the Legislature as this bill).

32
33 2. (New section) a. No later than 90 days after the effective
34 date of P.L. , c. (C.) (pending before the Legislature as this
35 bill), the board shall establish, maintain, and update, as appropriate,
36 an electronic public document search system, through the board’s
37 Internet website, that shall allow users to obtain board proceeding
38 documents and docket information online. The search system shall
39 reflect all filings and comments made to the board, in electronic or
40 in printed form, and shall provide for the managing and facilitating
41 of public access to all filings, orders, notices, rulemakings,
42 comments, or other board proceeding documents, as well as allow
43 parties to electronically file these documents. The search system
44 shall be subject to all of the following requirements:

45 (1) as soon as practicable, and not later than seven calendar days

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 after a document is electronically filed with the board, the
2 document shall be publicly accessible on the search system, unless a
3 longer period of time is needed, as determined by the board, due to
4 an emergency or to address confidentiality, other privacy claims, or
5 digitization of non-electronic records;

6 (2) all documents on the search system shall be available to the
7 public free of charge;

8 (3) any information within a document that is prohibited from
9 public disclosure by law or board order shall be exempt from
10 inclusion in the search system;

11 (4) all board-initiated documents shall be text-searchable and in
12 a machine-readable format and the board shall encourage the filing
13 of documents in text-searchable and machine-readable formats,
14 which capabilities shall be preserved in the search system;

15 (5) to the extent practicable, external websites shall be able to
16 link documents to the search system;

17 (6) the board shall provide access to all digital audio and visual
18 files of board recordings when those files become available on its
19 website, and shall explore the technical and financial practicality of
20 including its recordings in the search system; and

21 (7) the search system shall provide a search function for public
22 use.

23 b. In developing the search system, the board shall implement
24 technology in order to improve security, data accessibility,
25 affordability, and performance, and to minimize the burden on pro
26 se litigants.

27
28 3. (New section) a. Notwithstanding the provision of written
29 advance notice of at least 48 hours, but otherwise in conformity
30 with the other provisions of the "Senator Byron M. Baer Open
31 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), the Board
32 of Public Utilities shall make available to the public on its public
33 document search system, established pursuant to section 2 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 advance notice of every public meeting conducted by the board five
36 calendar days prior to the day of the meeting, unless a longer period
37 of advance notice is required by law, pursuant to the "Senator
38 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231
39 (C.10:4-6 et seq.); provided, however, that nothing in this
40 subsection shall prohibit the board from updating any meeting
41 agenda or adding an agenda item or removing an agenda item, as
42 well as providing an updated agenda within the five calendar day
43 period, consistent with public transparency. The provision of this
44 subsection shall apply to every public board meeting, including any
45 public comment meeting, as described in section 4 of P.L. , c.
46 (C.)(pending before the Legislature as this bill), regardless of
47 the number of board members present at the meeting.

1 b. For every public meeting conducted by the Board of Public
2 Utilities, as authorized by law, the board shall provide, in the
3 advance notice of that public meeting, pursuant to subsection a. of
4 this section, a description of any action that may be taken by the
5 board under each listed agenda item in the notice.

6
7 4. (New section) a. Members of the Board of Public Utilities
8 may engage in a discussion with interested parties on policy
9 matters, which discussions shall not be considered prohibited ex
10 parte communications; provided that nothing in this section shall
11 alter the prohibition on ex parte communications between members
12 and interested parties with regard to a contested case.

13 b. In order to increase transparency and accountability to the
14 public, the board shall hold a public comment meeting at least once
15 every three months in order to hear from the public and interested
16 stakeholders on policy matters before the board, and such matters as
17 the Legislature may from time to time designate. The public
18 comment meeting shall meet all requirements of the "Senator Byron
19 M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et
20 seq.) and shall allow for oral or written statements by:

21 (1) any member of the public who is not a party pursuant to
22 paragraph (2) of this subsection, on any topic germane to the
23 interests of the board; and

24 (2) any party to a proceeding or party represented by counsel or
25 a government affairs agent, on specific topics noticed by the board.

26 c. The board shall adopt, within 30 days of the effective date of
27 P.L. , c. (C.)(pending before the Legislature as this bill),
28 written policies to govern the conduct of public comment meetings
29 that shall maximize public engagement, provide annual notice of the
30 scheduled dates for public comment meetings in accord with the
31 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
32 c.231 (C.10:4-6 et seq.), allow for post-meeting written comments,
33 and reasonably minimize the inadvertent discussion of pending or
34 impending contested matters.

35
36 5. R.S.48:2-40 is amended to read as follows:

37 48:2-40. a. A majority vote of the board shall be necessary to
38 the issuance of an order.

39 b. (1) After the effective date of P.L.2011, c.63, the board
40 shall issue every order in written form.

41 (2) If a matter is an emergency that affects public health and
42 safety, the board may issue a temporary order on the matter orally,
43 but shall within 14 days thereafter issue the order as a written order
44 that does not differ substantively from the oral order. Any board
45 order issued orally may be made effective immediately, but,
46 regardless of its effective date, if that order is not issued in written
47 form within 14 calendar days thereafter, or the written order is

1 substantively different from the oral order, the oral order shall be
2 void and of no effect as of the 15th calendar day after its issuance.

3 c. The board shall issue any written order by filing a copy
4 thereof with the board secretary. Every written order issued by the
5 board shall be:

6 (1) served upon the person or public utility affected thereby
7 within **ten** seven calendar days from its filing by personally
8 delivering or by mailing a certified copy thereof in a sealed package
9 with postage prepaid to the person affected or to an officer or agent
10 of the public utility upon whom a summons may be served; and

11 (2) posted **upon the Internet website of the board** on its public
12 document search system, established pursuant to section 2 of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 within seven calendar days from its filing.

15 d. All written orders of the board shall become effective upon
16 service thereof or upon such dates after the service thereof as may
17 be specified therein.

18 e. The board at any time may order a rehearing and extend,
19 revoke, or modify an order made by it.
20 (cf: P.L.2011, c.63, s.1)

21
22 6. This act shall take effect on the 90th day after the date of
23 enactment and the Board of Public Utilities may take any
24 anticipatory administrative action in advance thereof as shall be
25 necessary for the timely implementation of P.L. , c. (C.)
26 (pending before the Legislature as this bill).