

SENATE, No. 379

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 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

Introduced Pending Technical Review by Legislative Counsel.



S379 WEINBERG

2

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
44 to discuss or act on the public body's business, except that a
45 subcommittee of a public body may be subject to certain of the act's

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 provisions that address adequate notice of meetings and records of
2 meetings; and therefore, typical partisan caucus meetings and
3 chance encounters of members of public bodies are neither covered
4 by the provisions of this act, nor are they intended to be so covered.
5 (cf: P.L.1981, c.176, s.1)

6
7 2. 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 other
15 legal relations of any person, or collectively authorized to spend
16 public funds including the Legislature, but does not mean or include
17 the judicial branch of the government, any grand or petit jury, any
18 parole board or any agency or body acting in a parole capacity, the
19 State Commission of Investigation, the Apportionment Commission
20 established under Article IV, Section III, of the Constitution, or any
21 political party committee organized under Title 19 of the Revised
22 Statutes. "Public body" also means, but is not limited to, an
23 independent authority, redevelopment entity, or improvement
24 authority, as well as any quasi-governmental agency. "Public
25 body" also means, but is not limited to, the New Jersey League of
26 Municipalities, the New Jersey Association of Counties, the New
27 Jersey State Interscholastic Athletic Association, the New Jersey
28 School Boards Association, the Educational Information and
29 Resource Center, and any joint insurance fund established by two or
30 more public bodies, and any substantially similar successor
31 organization or association.

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

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

4 d. "Adequate notice" means written advance notice of at least
5 48 hours, giving the time, date, location and **【**, to the extent
6 known,**】** the agenda of any regular, special or rescheduled meeting,
7 which notice shall accurately state whether formal action may or
8 may not be taken and which shall be (1) prominently posted on the
9 public body's Internet site, if the public body has established an
10 Internet site, and in at least one public place reserved for such or
11 similar announcements, (2) mailed, telephoned, **【**telegrammed**】**
12 faxed, mailed electronically, or hand delivered to at least two
13 newspapers which newspapers shall be designated by the public
14 body to receive such notices because they have the greatest
15 likelihood of informing the public within the area of jurisdiction of
16 the public body of such meetings, one of which shall be the official
17 newspaper, where any such has been designated by the public body
18 or if the public body has failed to so designate, where any has been
19 designated by the governing body of the political subdivision whose
20 geographic boundaries are coextensive with that of the public body
21 and (3) filed with the clerk of the municipality when the public
22 body's geographic boundaries are coextensive with that of a single
23 municipality, with the clerk of the county when the public body's
24 geographic boundaries are coextensive with that of a single county,
25 and with the Secretary of State if the public body has Statewide
26 jurisdiction. For any other public body the filing shall be with the
27 clerk or chief administrative officer of such other public body and
28 each municipal or county clerk of each municipality or county
29 encompassed within the jurisdiction of such public body. Where
30 annual notice or revisions thereof in compliance with section 13 of
31 this act set forth the location of any meeting, no further notice shall
32 be required for such meeting, except for notice pertaining to
33 agendas and formal action on the public body's Internet site, if the
34 body has established an Internet site, and posting in at least one
35 public place reserved for such or similar announcements, transmittal
36 to the newspapers described in paragraph (2) of this subsection and
37 to any member of the public who shall have requested such notice.
38 Notice shall not be considered "adequate notice" within the
39 meaning of this subsection unless it includes the estimated starting
40 time, as nearly so as can be established, for the beginning of the
41 portion of any meeting from which the public is not excluded.

42 e. "Agenda" means the list of all items of business to be
43 discussed or voted on at a public meeting. For purposes of
44 providing adequate notice, agendas shall include each individual
45 item to be discussed or acted upon, and a brief description thereof,
46 and shall identify the names of the parties to and approximate dollar
47 amounts of any contracts, including employment contracts and
48 collective bargaining agreements, for which agreements the agenda

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

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

32 g. "Quasi-governmental agency" means any association,
33 commission, agency, authority, organization, public-private entity,
34 or any other entity, in which one or more public agencies exercise
35 substantial control as evidenced by whether the public agency, as
36 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
37 ability to review, approve, or reject the quasi-governmental
38 agency's proposals or plans, holds a beneficial interest in the quasi-
39 governmental agency's assets, is the primary source of funding of,
40 or is indebted to, or is a creditor of, or guarantor of the debts of, the
41 quasi-governmental agency. The term shall not include any
42 organization organized under paragraph (3) of subsection (c) of
43 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
44 that was not created by, or with the approval of, a public agency
45 primarily for the purpose of assisting that public agency or any
46 labor organization or any contractor providing goods or services to
47 a public agency. However, nothing contained herein shall affect the

1 application of P.L.1975, c.231 (C.10:4-6 et seq.) to entities that
2 otherwise fall within the definition of “public body.”

3 h. “Quorum” means a majority of the full membership of a
4 public body or of a subcommittee.

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

6

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

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

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

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

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

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

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

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

41

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

44 1. In addition to the notice requirements of the "Open Public
45 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
46 **[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, legal counsel, or independent consultants or advisers,
28 about any matter on the agenda for that meeting by means of
29 communication equipment, including electronic mail, instant
30 messaging or similar technologies. Nothing in this act shall be
31 construed to limit the discretion of a public body to permit, prohibit,
32 or regulate the active participation of the public at any meeting,
33 except that a **【municipal governing】** public body **【and a board of**
34 **education】**, other than the Legislature, shall be required to set aside
35 a portion of every meeting of the **【municipal governing】** public
36 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. a. The Legislature shall keep comprehensive minutes of all
23 of its meetings showing the time and place, the members present,
24 the subjects considered, the actions taken, the vote of each member,
25 and any other information required to be shown in the minutes by
26 law, which shall be promptly available to the public to the extent
27 that making such matters public shall not be inconsistent with
28 section 7 of P.L.1975, c.231 (C.10:4-12).

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

40 Minutes shall be made available to the public as soon as possible
41 but not later than 15 business days after the next meeting of the
42 public body occurring after the meeting for which the minutes were
43 prepared, to the extent that making such matters public shall not be
44 inconsistent with section 7 of P.L.1975, c.231 (C.10:4-12). In the
45 case of a municipality having a population of 5,000 or fewer
46 inhabitants according to the most recent federal decennial census, a
47 board of education having a total district enrollment of 500 or fewer

1 pupils, or a public authority having less than \$10 million in assets,
2 the minutes of the meeting shall be made available not later than 20
3 business days after the next subsequent meeting.

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

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

21 c. Any member of a public body, other than the Legislature, who
22 becomes aware of a meeting held in violation of P.L.1975, c.231
23 (C.10:4-6 et seq.), including electronic communications among
24 members of a public body or of a subcommittee which the public
25 body has determined shall hold meetings open to the public in
26 accordance with section 18 of P.L. , c. (C.) (pending before
27 the Legislature as this bill), constituting a quorum thereof, that do
28 not address a purely administrative matter, shall inform the
29 presiding member who shall ensure that minutes of such meetings
30 shall be made, and such electronic communications, if any, shall be
31 filed with the clerk of the public body for a period of time to be
32 determined by the State Records Committee to permit their use in
33 litigation, to enforce the provisions of P.L.1975, c.231 (C.10:4-
34 6 et seq.), or for public access.

35 d. Each public body that possesses sound recording devices that
36 are available and functioning shall cause to be recorded by those
37 sound recording devices only the public portions of all meetings of
38 that public body, including any emergency meeting held pursuant to
39 section 4 of P.L.1975, c.231 (C.10:4-9), and shall maintain
40 possession of the recordings for a period of time to be determined
41 by the State Records Committee to permit their use in litigation, to
42 enforce the provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for
43 public access. Sound recordings, or any video recordings, shall
44 reflect the public portions of meetings in their entirety, including
45 the public comment portions of meetings. The unedited recordings
46 shall be promptly made available to the public, but not later than the
47 fifth business day following the meeting, to the extent that making
48 such matters public shall not be inconsistent with section 7 of this

1 act. Public bodies shall only present the recordings as official and
2 authentic representations of the public meetings if presented in their
3 unedited form. Public bodies, if presenting edited versions of the
4 recording, shall conspicuously label such as an edited version and
5 shall include a notification that the official unedited recording is
6 available on request from the public body.

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

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

23
24 8. Section 10 of P.L.1975, c.231 (C.10:4-15) is amended to
25 read as follows:

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

42 b. Any party, including any member of the public, may
43 institute a proceeding in lieu of prerogative writ in the Superior
44 Court to challenge any action taken by a public body on the grounds
45 that such action is void for the reasons stated in subsection a. of this
46 section, and if the court shall find that the action was taken at a
47 meeting which does not conform to the provisions of this act, the
48 court shall declare such action void. Any party, other than a public

1 body, that prevails in an action brought pursuant to this section
2 shall be awarded the amount of reasonable attorney's fees incurred
3 in bringing the action. The cost of any attorney's fee awarded by
4 the court shall be paid by the public body.

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

6
7 9. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to
8 read as follows:

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

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

19
20 10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
21 read as follows:

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

36 An action may be brought in a summary proceeding under ["the
37 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
38 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
39 The Superior Court shall have jurisdiction to enforce said penalty
40 upon complaint of the Attorney General or the county prosecutor ,or
41 any member of the public. Whenever a member of a public body,
42 or any member of the staff of the public body, believes that a
43 meeting of such body is being held in violation of the provisions of
44 this act, he shall immediately state this at the meeting together with
45 specific reasons for his belief which shall be recorded in the
46 minutes of that meeting, and if the meeting is one from which the
47 public is excluded, the member's or staff member's statement and

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

9
10 11. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
11 read as follows:

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

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

29
30 12. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
31 read as follows:

32 14. Any person may request that a public body mail or
33 electronically mail to him, at his option, notice of agendas of all
34 meetings, copies of any regular meeting schedule or revision
35 described in section 13 of this act and any advance written notice
36 described in subsection 3. d. of this act of any regular, special or
37 rescheduled meeting of such body, and upon prepayment by such
38 person of a reasonable sum, if any has been fixed by resolution of
39 the public body to cover the costs of providing such notice, the
40 public body shall mail to such person written advance notice of all
41 of its meetings within the time prescribed by subsection 3. d. herein,
42 subject only to the exceptions set forth in subsection 4. b. herein.
43 Such resolution may provide that notice requested by the news
44 media shall be mailed to such news media free of charge. If a
45 person requests advance written notice by electronic mail, no
46 payment shall be required. All requests for notices made under this
47 section shall terminate at midnight on December 31 of each year,

1 but shall be subject to renewal upon a new request to the public
2 body.

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

4
5 13. (New section) In the case of State agencies, other than the
6 Legislature, the Secretary of State, through the Department of State,
7 shall create and maintain an Internet site for the posting of
8 information, including the time, date, location, and purpose, of
9 public hearings and meetings of State agencies. Each State agency
10 shall promptly notify the Secretary of State and submit the
11 necessary information concerning that agency's public hearings and
12 meetings. The secretary shall maintain on that site an electronic
13 public bulletin board that includes a monthly calendar consisting of
14 the meeting notices and agendas of all State agencies, boards and
15 commissions. The public bulletin board shall also include links to
16 other information of interest to the public, including, but not limited
17 to, Executive Branch press releases, State budget information,
18 bidding opportunities, election law enforcement information, and
19 financial and ethics disclosure information. The Internet site
20 created pursuant to this section shall also post information that is
21 provided to the Secretary of State by a public body pursuant to
22 section 16 of P.L. , c. (C.) (pending before the Legislature
23 as this bill). All information posted pursuant to this section shall
24 remain posted for a period of time determined by the State Records
25 Committee.

26
27 14. (New section) At least quarterly, a public body, other than
28 the Legislature, shall conduct a review of the minutes of any
29 previous meeting when any part has been withheld from public
30 access. The review shall determine whether any part of any minutes
31 that have been withheld from public access can now be made
32 accessible to the public. If the public body determines that any part
33 of previously withheld minutes can now be disclosed to the public,
34 it shall make that part thereof accessible to the public.

35
36 15. (New section) In addition to any other penalties imposed
37 by law, an appointed member of a public body may be removed
38 from the public body by the appointing authority because of two or
39 more violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
40 significant denial of the public's right of access as provided by that
41 act upon a determination by a court of competent jurisdiction that a
42 denial of access was significant.

43
44 16. (New section) a. Every public body, other than the
45 Legislature, that maintains or publishes an Internet site, or maintains or
46 publishes web pages on an Internet site operated by a government or
47 non-public entity, shall have posted on that site: the public body's
48 annual schedule of regular meetings and its agendas of those meetings

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

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

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

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

34 e. All information posted pursuant to this section shall remain
35 posted for a period of time determined by the State Records
36 Committee.

37

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

44

45 18. (New section) A public body shall determine for each
46 subcommittee whether meetings of that subcommittee shall be open
47 to the public. For a meeting of a subcommittee that will be open to
48 the public, the public body shall provide adequate notice of that

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

8
9 19. This act shall take effect on the 120th day after the date of
10 enactment.

11
12
13
14

STATEMENT

15 This bill revises the “Senator Byron M. Baer Open Public
16 Meetings Act,” N.J.S.A.10:4-6 et seq., to provide greater public access
17 to meetings of public bodies and information about those meetings.
18 The bill clarifies and expands the public’s right to receive notice of
19 meetings of public bodies, to be present at such meetings and, under
20 certain circumstances, to be heard at meetings, as well as to have
21 access to minutes of meetings. It extends the scope of the act to apply
22 certain of its provisions to subcommittees and to include certain quasi-
23 governmental entities. The bill also addresses issues relating to
24 communications among members of a public body, the recording of
25 meetings, the posting of meeting-related information on the Internet,
26 the use of closed sessions, and penalties for violations.