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.
AN ACT making various changes to the law addressing meetings of public bodies and amending P.L.2002, c.91 and amending and supplementing P.L.1975, c.231.

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

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

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

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

The Legislature, therefore, declares that it is the understanding and the intention of the Legislature that in order to be covered by the provisions of this act a public body must be organized by law and be collectively empowered as a multi-member voting body to spend public funds or affect persons' rights; that, therefore, informal or purely advisory bodies with no effective authority are not covered, nor are groupings composed of a public official with subordinates or advisors, who are not empowered to act by vote such as a mayor or the Governor meeting with department heads or cabinet members, that specific exemptions are provided for the Judiciary, parole bodies, the State Commission of Investigation, the Apportionment Commission and political party organization; that to be covered by the provisions of this act a meeting must be open to all the public body's members, and the members present must intend to discuss or act on the public body's business, except that a 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.
provisions that address adequate notice of meetings and records of
typical partisan caucus meetings and
chance encounters of members of public bodies are neither covered
by the provisions of this act, nor are they intended to be so covered.
(cf: P.L.1981, c.176, s.1)

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

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

   b. “Meeting” means and includes any gathering whether
corporeal or by means of communication equipment, which is
attended by, or open to, all of the members of a public body, or
attended by, or open to, all members of a subcommittee if the public
body has determined that the meetings of that subcommittee shall
be open to the public in accordance with section 18 of
P.L. (pending before the Legislature as this bill),
and held with the intent, on the part of the members of the body
present, to discuss or act as a unit upon the specific public business
of that body. Meeting does not mean or include any such gathering
(1) attended by less than [an effective majority of the members of]
a quorum of a public body, or (2) attended by or open to all the
members of three or more similar public bodies at a convention or
similar gathering. Meeting does not include a chance encounter or
any gathering at which members of a public body or of a
subcommittee do not discuss or act upon the public business of that
public body or subcommittee.
c. "Public business" means and includes all matters which relate in any way, directly or indirectly, to the performance of the public body's functions or the conduct of its business.

d. "Adequate notice" means written advance notice of at least 48 hours, giving the time, date, location and, to the extent known, the agenda of any regular, special or rescheduled meeting, which notice shall accurately state whether formal action may or may not be taken and which shall be (1) prominently posted on the public body's Internet site, if the public body has established an Internet site, and in at least one public place reserved for such or similar announcements, (2) mailed, telephoned, faxed, mailed electronically, or hand delivered to at least two newspapers which newspapers shall be designated by the public body to receive such notices because they have the greatest likelihood of informing the public within the area of jurisdiction of the public body of such meetings, one of which shall be the official newspaper, where any such has been designated by the public body or if the public body has failed to so designate, where any has been designated by the governing body of the political subdivision whose geographic boundaries are coextensive with that of the public body and (3) filed with the clerk of the municipality when the public body's geographic boundaries are coextensive with that of a single municipality, with the clerk of the county when the public body's geographic boundaries are coextensive with that of a single county, and with the Secretary of State if the public body has statewide jurisdiction. For any other public body the filing shall be with the clerk or chief administrative officer of such other public body and each municipal or county clerk of each municipality or county encompassed within the jurisdiction of such public body. Where annual notice or revisions thereof in compliance with section 13 of this act set forth the location of any meeting, no further notice shall be required for such meeting, except for notice pertaining to agendas and formal action on the public body’s Internet site, if the body has established an Internet site, and posting in at least one public place reserved for such or similar announcements, transmittal to the newspapers described in paragraph (2) of this subsection and to any member of the public who shall have requested such notice. Notice shall not be considered “adequate notice” within the meaning of this subsection unless it includes the estimated starting time, as nearly so as can be established, for the beginning of the portion of any meeting from which the public is not excluded.

e. “Agenda” means the list of all items of business to be discussed or voted on at a public meeting. For purposes of providing adequate notice, agendas shall include each individual item to be discussed or acted upon, and a brief description thereof, and shall identify the names of the parties to and approximate dollar amounts of any contracts, including employment contracts and collective bargaining agreements, for which agreements the agenda
shall list the number, but not the names, of employees covered thereby, to be discussed or acted upon. No public body shall act upon a matter that is not listed on the agenda. In addition, a public body, upon the affirmative vote of a majority of the members present at a meeting, may add an item to the agenda for that meeting when necessary to deal with a matter of such urgency and importance that a delay for the purpose of providing adequate notice would be likely to result in substantial harm to the public interest, and provided that the minutes contain a statement that explains the reason for adding that item to the agenda, why the item did not appear on the agenda for that meeting, and why delaying consideration of the item would be likely to result in substantial harm to the public interest, except that the Legislature may add an item to its agenda at any time. Whenever a public body releases to the public an agenda of a regular, special, or rescheduled meeting of that public body, pursuant to this subsection, that includes a reference to an attachment, appendix, or other document that is a government record, the agenda shall include a statement that the attachment, appendix, or other document shall be available to the public for inspection, copying, or the purchase of copies. If any member of the public, at least 24 hours prior to a meeting, requests a copy of any attachment, appendix, or other document that is a government record referenced in an agenda, the custodian thereof shall send an electronic copy to the requestor. If such a request is received within 24 hours prior to a meeting, an attachment, appendix, or other document requested shall be made available to the requestor at the meeting of the public body.

t. “Subcommittee” means any subordinate committee of a public body, except the Legislature, regardless of label, that is formally created by that body, comprised of two or more members, but less than a quorum, of the public body.

g. “Quasi-governmental agency” means any association, commission, agency, authority, organization, public-private entity, or any other entity, in which one or more public agencies exercise substantial control as evidenced by whether the public agency, as defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the ability to review, approve, or reject the quasi-governmental agency’s proposals or plans, holds a beneficial interest in the quasi-governmental agency’s assets, is the primary source of funding of, or is indebted to, or is a creditor of, or guarantor of the debts of, the quasi-governmental agency. The term shall not include any organization organized under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code (26 U.S.C. s.501) that was not created by, or with the approval of, a public agency primarily for the purpose of assisting that public agency or any labor organization or any contractor providing goods or services to a public agency. However, nothing contained herein shall affect the
application of P.L.1975, c.231 (C.10:4-6 et seq.) to entities that
otherwise fall within the definition of “public body.”

h. “Quorum” means a majority of the full membership of a
public body or of a subcommittee.
(cf: P.L.1981, c.176, s.2)

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

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

b. Upon the affirmative vote of three-quarters of the members
present a public body may hold a meeting notwithstanding the
failure to provide adequate notice if:
(1) such meeting is required in order to deal with matters of
such urgency and importance that a delay for the purpose of
providing adequate notice would be likely to result in substantial
harm to the public interest; and
(2) the meeting is limited to discussion of and acting with
respect to such matters of urgency and importance; and
(3) notice of such meeting is provided as soon as possible
following the calling of such meeting by posting written notice of
the same on the public body’s Internet site, if the public body has
established an Internet site and in the public place described in
subsection d. of section 3 [d.] of P.L.1975, c.231 (C.10:4-8) above,
and also by notifying the two newspapers described in section 3. d.
by telephone, [telegram,] fax machine, electronic mail, or by
delivering a written notice of same to such newspapers; and
(4) [either (a)] the public body could not reasonably have
foreseen the need for such meeting at a time when adequate notice
could have been provided [; or (b) although the public body could
reasonably have foreseen the need for such meeting at a time when
adequate notice could have been provided, it nevertheless failed to
do so].
(cf: P.L.1975, c.231, s.4)

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

1. In addition to the notice requirements of the "Open Public
Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
[may] shall provide electronic notice of any meeting of the public
body through the Internet, if the public body maintains an Internet
site or pages on an Internet site.

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

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

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

7. a. Except as provided by subsection b. of this section all
meetings of public bodies shall be open to the public at all times.
Except for communications that are purely administrative or
procedural in nature, no member of a public body, other than the
Legislature, during any meeting of that public body to which the
public is admitted, shall communicate privately, by means of
communication equipment, including electronic mail, instant
messaging or similar technologies, including directly or indirectly
through staff or legal counsel, with any other member of the public
body about any matter on the agenda for that meeting, and no
member shall communicate privately with any other person, other
than staff, legal counsel, or independent consultants or advisers,
about any matter on the agenda for that meeting by means of
communication equipment, including electronic mail, instant
messaging or similar technologies. Nothing in this act shall be
construed to limit the discretion of a public body to permit, prohibit,
or regulate the active participation of the public at any meeting,
except that a [municipal governing] public body [and a board of
education], other than the Legislature, shall be required to set aside
a portion of every meeting of the [municipal governing] public
body [or board of education, the length of the portion to be
determined by the municipal governing body or board of
education,] for public comment at the meeting in question, with
such comments being limited to items on the agenda and on any
governmental [or school district] issue that a member of the public
feels may be of concern to and within the authority of the [residents
of the municipality or school district] public body. A public body,
other than the Legislature, shall permit all proceedings of any
public meeting to be recorded, photographed, audiotaped,
videotaped, broadcast or recorded for broadcast by any member of
the public or news organization, subject only to such reasonable
rules as the public body may adopt prior to the meeting to minimize undue disruption to its meetings.

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

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

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

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

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

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

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

(5) matter involving the purchase, lease, or acquisition of real property with public funds, the setting of banking rates, or
investment of public funds, if it public discussion could adversely
affect the public interest if discussion of the matters were disclosed;
(6) tactics and techniques utilized in protecting the safety and
property of the public, provided that their disclosure could impair
that protection, or investigations of violations or possible violations of the law;
(7) pending or anticipated litigation or contract negotiation consultation with legal counsel concerning the legal rights and
duties of the public body with regard to current litigation or
litigation likely to be filed in connection with any executed contract
which the public body is, or is likely to become, a party, or
current or anticipated contract negotiations, other than
in subsection b. (4) herein in which the public body is, or may
become, a party, or matters falling within the attorney-client
privilege, to the extent that confidentiality is required in order for
the attorney to exercise his ethical duties as a lawyer;
(8) matter involving the employment, appointment, termination
of employment, terms and conditions of employment, evaluation
of the performance of, promotion, or disciplining of any specific
prospective public officer or employee or current public officer
or employee, prospective or current, employed or appointed by the
public body, unless all the individual employees or appointees
whose rights could be adversely affected request in writing that the
matter or matters be discussed at a public meeting. Public bodies
shall give written notice of at least two business days to any officer
or employee, and any adversely affected individual or individuals,
in advance of any proposed meeting at which his or her
employment, appointment, termination, evaluation of the
performance of, promotion or discipline may be discussed. The
matter or matters pertaining to him or her shall be discussed in
closed session unless the officer or employee and any adversely
affected individual or individuals, but not a third party
representative, requests in writing that the matter or matters be
discussed in open session. This paragraph shall not apply to a
public body’s discussions or actions relating to tenure matters if any
statute or collective bargaining agreement shall provide otherwise.
(9) deliberations of a public body occurring after a public
hearing that may result in the imposition of a specific civil penalty
upon the responding party or the suspension or loss of a license or
permit belonging to the responding party as a result of an act or
omission for which the responding party bears responsibility.
c. The grounds for exclusion of the public set forth in
subsection b. of this section shall be construed strictly to minimize
instances in which meetings or portions of meetings are closed to
the public. The public may not be excluded from a public body’s
discussion of actual contracts or executed contracts, except that a
public body may go into closed session for consultations with legal
counsel, pursuant to paragraph (7) of subsection b. of this section,
when there is current litigation, or litigation is likely to be filed,
concerning an actual or executed contract.
(cf: P.L.2013, c.103, s.57)

6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
as follows:
8. No public body shall exclude the public from any meeting to
discuss any matter described in subsection b. of section 7 [b.] of
P.L.1975, c.231 (C.10:4-12) until the public body shall first adopt a
resolution, at a meeting to which the public shall be admitted:
   a. Stating the [general nature of the] reasonably specific
subject to be discussed and the reasonably specific basis for
excluding the public; and
   b. Stating as precisely as possible, the time when and the
circumstances under which the discussion conducted in closed
session of the public body can be disclosed to the public.
(cf: P.L.1975, c.231, s.8)

7. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
as follows:
9. a. The Legislature shall keep comprehensive minutes of all
of its meetings showing the time and place, the members present,
the subjects considered, the actions taken, the vote of each member,
and any other information required to be shown in the minutes by
law, which shall be promptly available to the public to the extent
that making such matters public shall not be inconsistent with
section 7 of P.L.1975, c.231 (C.10:4-12).
   b. Each public body, other than the Legislature, shall keep reasonable minutes of all its
meetings including any portion of a meeting from which the public
was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),
showing, at a minimum, the time and place, the members present,
the subjects considered, the actions taken, including all motions
made, the identities of the moving and seconding members, the vote
of each member and each member’s stated reasons, if any, for his or
her action or vote, the identity of each member of the public who
spoke and a summary of what was said, and any other information
required to be shown in the minutes by law [which].
Minutes shall be made available to the public as soon as possible
but not later than 15 business days after the next meeting of the
public body occurring after the meeting for which the minutes were
prepared, to the extent that making such matters public shall not be
inconsistent with section 7 of P.L.1975, c.231 (C.10:4-12). In the
case of a municipality having a population of 5,000 or fewer
inhabitants according to the most recent federal decennial census, a
board of education having a total district enrollment of 500 or fewer
pupils, or a public authority having less than $10 million in assets,
the minutes of the meeting shall be made available not later than 20
business days after the next subsequent meeting.
A public body may vote at that next subsequent meeting in favor
of a reasonable delay in making the minutes available due to an
emergency that would preclude the public body from abiding by the
15- or 20-day requirement, respectively. Prior to taking such vote,
the public body shall announce and provide a detailed explanation
of the reason for the delay. The public body shall include that
explanation in the minutes of the meeting at which the vote took
place.
As used in this subsection, “emergency” means any sudden,
unexpected, or unforeseeable event or condition, natural or man-
made, which interferes with the conduct of normal business
operations of a public body for three or more calendar days.
Without limiting the generality of the foregoing, an emergency may
arise when a condition such as any one or more of the following
arises: forces of the natural elements, fire, explosions, epidemics,
power failures, labor disputes, transportation failures, war, riots,
civil disturbances, and other acts of lawlessness or violence.

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

d. Each public body that possesses sound recording devices that
are available and functioning shall cause to be recorded by those
sound recording devices only the public portions of all meetings of
that public body, including any emergency meeting held pursuant to
section 4 of P.L.1975, c.231 (C.10:4-9), and shall maintain
possession of the recordings for a period of time to be determined
by the State Records Committee to permit their use in litigation, to
enforce the provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for
public access. Sound recordings, or any video recordings, shall
reflect the public portions of meetings in their entirety, including
the public comment portions of meetings. The unedited recordings
shall be promptly made available to the public, but not later than the
fifth business day following the meeting, to the extent that making
such matters public shall not be inconsistent with section 7 of this
act. Public bodies shall only present the recordings as official and authentic representations of the public meetings if presented in their unedited form. Public bodies, if presenting edited versions of the recording, shall conspicuously label such as an edited version and shall include a notification that the official unedited recording is available on request from the public body.

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

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

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

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

b. Any party, including any member of the public, may institute a proceeding in lieu of prerogative writ in the Superior Court to challenge any action taken by a public body on the grounds that such action is void for the reasons stated in subsection a. of this section, and if the court shall find that the action was taken at a meeting which does not conform to the provisions of this act, the court shall declare such action void. Any party, other than a public
body, that prevails in an action brought pursuant to this section
shall be awarded the amount of reasonable attorney’s fees incurred
in bringing the action. The cost of any attorney’s fee awarded by
the court shall be paid by the public body.
(cf: P.L.1975, c.231, s.10)

9. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to
read as follows:
11. Any person, including a member of the public, may apply to
the Superior Court for injunctive orders or other remedies to insure
compliance with the provisions of this act, and the court shall issue
such orders and provide such remedies as shall be necessary to
insure compliance with the provisions of this act. Any party, other
than a public body, that prevails in an action brought pursuant to
this section, shall be awarded the amount of reasonable attorney’s
fees incurred in bringing the action. The cost of any attorney’s fee
awarded by the court shall be paid by the public body.
(cf: P.L.1975, c.231, s.11)

10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
read as follows:
12. Any person who knowingly violates any of the foregoing
sections of this act shall be fined [[$100.00] $250.00] for the first
offense and no less than [[$100.00 nor more than]] $500.00 for any
subsequent offense [, recoverable by the State by]. A fine shall be
paid by the individual found to have committed the violation out of
that individual’s personal funds. Under no circumstances shall
public funds, or contributions as defined in subsection b. of section
Contributions and Expenditures Reporting Act,” be used to pay a
fine or to reimburse a person who has paid, or will pay, a fine for
the cost of that fine. The Attorney General or county prosecutor, or
any member of the public, shall have standing to bring an action in
Superior Court to prove that a violation of P.L.1975, c.231 (C.10:4-6 et seq.) has occurred.
An action may be brought in a summary proceeding under “the
penalty enforcement law” (N.J.S.2A:58-1 et seq.) the “Penalty
The Superior Court shall have jurisdiction to enforce said penalty
upon complaint of the Attorney General or the county prosecutor or
any member of the public. Whenever a member of a public body,
or any member of the staff of the public body, believes that a
meeting of such body is being held in violation of the provisions of
this act, he shall immediately state this at the meeting together with
specific reasons for his belief which shall be recorded in the
minutes of that meeting, and if the meeting is one from which the
public is excluded, the member’s or staff member’s statement and
reasons shall also be announced at and recorded in the minutes of
the next meeting of the public body at which the public is not
excluded. Whenever such a member's or staff member’s objections
to the holding of such meeting are overruled by the majority of
those present, such a member or staff member may continue to
participate at such meeting without penalty provided he has
complied with the duties imposed upon him by this section.
(cf: P.L.1994, c.58, s.41)

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

13. At least once each year, within 7 days following the annual
organization or reorganization meeting of a public body, or if there
be no such organization or reorganization meeting in the year, then
by not later than January 10 of such year, every public body shall
post and maintain posted throughout the year on the public body’s
Internet site, if the public body has established an Internet site, and
in the place reserved for such or similar announcements described
in subsection 3. d. (1), mail to the newspapers described in
subsection 3. d. (2), submit to the persons described in subsection 3.
d. (3), for the purpose of public inspection a schedule of the regular
meetings of the public body to be held during the succeeding year.
Such schedule shall contain the location of each meeting to the
extent it is known, and the time and date of each meeting. In the
event that such schedule is thereafter revised, the public body,
within 7 days following such revision, shall post, mail and submit
such revision in the manner described above.
(cf: P.L.1975, c.231, s.13)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT

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