SENATE, No. 343

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator BAER

AN ACT to amend and supplement the "Open Public Meetings Act," approved October 21, 1975 (P.L.1975, c.231).

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

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

9. Each public body shall keep reasonably comprehensible minutes of all 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**]**. Each public body of the State or of a county shall cause to be recorded by sound recording devices all or any portion of a meeting of that public body from which the public is excluded as provided by subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12) or 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 reasonable period of time to permit their use in litigation, to enforce the provisions of this act, or to permit public access when there is no longer any basis for excluding the public from the discussion of the matter or matters.

The recorded tapes and the minutes shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with section 7 of this act.

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

2. 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 days after the action sought to be voided has been made public; provided, however,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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.

No action under this section shall be subject to dismissal on grounds that the matters in question no longer present a case or controversy.

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, including any member of the public, who prevails in an action brought pursuant to this section shall be awarded the amount of reasonable attorney's fees incurred in bringing the action, but not exceeding a total of $10,000. 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)

3. 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 person, including a member of the public, who prevails in an action for injunctive relief pursuant to this section shall be awarded the amount of reasonable attorney's fees incurred in bringing the action, but not exceeding a total of $10,000. The cost of any attorney's fees awarded by the court shall be paid by the public body.

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

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

12. Any person who knowingly or negligently violates any of the foregoing sections of this act shall be fined $100.00 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 summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). For the purposes of this section, a person acts negligently if his conduct

involves gross negligence. The Superior Court shall have jurisdiction to enforce said penalty upon complaint of the Attorney General or the county prosecutor. Whenever a member of a 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. Whenever such a member's objections to the holding of such meeting are overruled by the majority of those present, such a 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)

5. (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 repeated violations of P.L.1975, c.231 (C.10:4-6 et seq.) which result in a significant denial of the public's right of access as provided by that act.

6. This act shall take effect immediately.

Revises provisions of the "Open Public Meetings Act" to ensure greater compliance.