

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 4556 and 4145**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED OCTOBER 19, 2020

**Sponsored by:**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

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

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Telecommunications and Utilities Committee.

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

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

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

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

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

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

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

18 “Policy matter” means a matter:

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

1       b. For every public meeting conducted by the Board of Public  
2 Utilities, as authorized by law, the board shall provide, in the  
3 advance notice of that public meeting, pursuant to subsection a. of  
4 this section, a description of any action that may be taken by the  
5 board under each listed agenda item in the notice.  
6

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

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

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

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

26       c. The board shall adopt, within 30 days of the effective date of  
27 P.L. , c. (C. )(pending before the Legislature as this bill),  
28 written policies to govern the conduct of public comment meetings  
29 that shall maximize public engagement, provide annual notice of the  
30 scheduled dates for public comment meetings in accord with the  
31 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,  
32 c.231 (C.10:4-6 et seq.), allow for post-meeting written comments,  
33 and reasonably minimize the inadvertent discussion of pending or  
34 impending contested matters.  
35

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

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

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

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

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

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

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

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

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

18 e. The board at any time may order a rehearing and extend,  
19 revoke, or modify an order made by it.

20 (cf: P.L.2011, c.63, s.1)

21

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