

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1451

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED NOVEMBER 29, 2012

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Revises law concerning meetings of public bodies to provide public with greater access to meetings and information about meetings.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 **AN ACT** revising the law addressing meetings of public bodies and
2 amending P.L.2002, c.91 and amending and supplementing
3 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
42 to be covered by the provisions of this act a meeting must be open
43 to all the public body's members, and the members present must
44 intend to discuss or act on the public body's business, except that a

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

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

10 3. As used in this act:

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

33 b. "Meeting" means and includes any gathering whether
34 corporeal or by means of communication equipment, which is
35 attended by, or open to, all of the members of a public body, held
36 with the intent, on the part of the members of the body present, to
37 discuss or act as a unit upon the specific public business of that
38 body. Meeting does not mean or include any such gathering (1)
39 attended by less than **【an effective majority of the members of】** a
40 quorum of a public body, or (2) attended by or open to all the
41 members of three or more similar public bodies at a convention or
42 similar gathering.

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

46 d. "Adequate notice" means written advance notice of at least
47 48 hours, excluding weekends and State holidays, giving the time,

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

38 e. "Agenda" means the list of all items of business to be
39 discussed or voted on at a public meeting. For purposes of
40 providing adequate notice, agendas shall include each individual
41 item to be discussed or acted upon, and a brief description thereof,
42 and shall identify the names of the parties to and approximate dollar
43 amounts of any contracts, including employment contracts, to be
44 discussed or acted upon. No public body shall act upon a matter
45 that is not listed on the agenda for which notice was given 48 hours,
46 excluding weekends and State holidays, prior to the meeting. In
47 addition, a public body, upon the affirmative vote of two-thirds of

1 the members present at a meeting, may add an item to the agenda
2 for that meeting provided that the minutes contain a statement of
3 the reason for adding that item to the agenda, except that the
4 Legislature may add an item to its agenda at any time.

5 f. “Subcommittee” means any subordinate committee of a
6 public body, except the Legislature, regardless of label, that is
7 formally created by that body and comprised of two or more of its
8 members and collectively empowered as a voting body to perform a
9 public governmental function affecting the rights, duties,
10 obligations, privileges, benefits, or other legal relations of any
11 person, or collectively authorized to spend public funds.

12 g. “Quasi-governmental agency” means any association,
13 commission, agency, authority, organization, public-private entity,
14 or any other entity, in which one or more public agencies exercise
15 substantial control as evidenced by whether the public agency, as
16 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
17 ability to review, approve, or reject the quasi-governmental
18 agency’s proposals or plans, holds a beneficial interest in the quasi-
19 governmental agency’s assets, is the primary source of funding of,
20 or is indebted to, or is a creditor of, or guarantor of the debts of, the
21 quasi-governmental agency. The term shall not include any
22 organization organized under paragraph (3) of subsection (c) of
23 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
24 that was not created by, or with the approval of, a public agency
25 solely for the purpose of assisting that public agency or any labor
26 organization or any contractor providing goods or services to a
27 public agency.

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

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

31

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

34 4. a. Except as provided by subsection b. of this section, or for
35 any meeting limited only to consideration of items listed in section
36 7. b., no public body, or subcommittee thereof, shall hold a meeting
37 unless adequate notice thereof has been provided to the public.

38 b. Upon the affirmative vote of **[three quarters]** two-thirds of
39 the members present a public body may hold a meeting
40 notwithstanding the failure to provide adequate notice if:

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

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

1 (3) notice of such meeting is provided as soon as possible
2 following the calling of such meeting by posting written notice of
3 the same on the public body's Internet site, if the public body has
4 established an Internet site and in the public place described in
5 section 3. d. above, and also by notifying the two newspapers
6 described in section 3. d. by telephone, **[telegram,]** fax machine,
7 electronic mail, or by delivering a written notice of same to such
8 newspapers; and

9 (4) **[either (a)]** the public body could not reasonably have
10 foreseen the need for such meeting at a time when adequate notice
11 could have been provided **;** or (b) although the public body could
12 reasonably have foreseen the need for such meeting at a time when
13 adequate notice could have been provided, it nevertheless failed to
14 do so**].**

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

16

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

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

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

31 As used in this section, "Internet" means the international
32 computer network of both federal and non-federal interoperable
33 packet switched data networks.

34 (cf: P.L.2002, c.91, s.1)

35

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

38 7. a. Except as provided by subsection b. of this section all
39 meetings of public bodies shall be open to the public at all times.
40 Except for communications that are purely administrative or
41 procedural in nature, no member of a public body, other than the
42 Legislature, during any meeting of that public body to which the
43 public is admitted, shall communicate privately, by means of
44 communication equipment, including electronic mail, instant
45 messaging or similar technologies, including directly or indirectly
46 through staff, with any other member of the public body about any
47 matter on the agenda for that meeting, and no member shall

1 communicate privately with any other person, other than staff or
2 legal counsel, about any matter on the agenda for that meeting by
3 means of communication equipment, including electronic mail,
4 instant messaging or similar technologies. Nothing in this act shall
5 be construed to limit the discretion of a public body to permit,
6 prohibit or regulate the active participation of the public at any
7 meeting, except that a **【municipal governing】** public body **【and a**
8 **board of education】** , other than the Legislature, shall be required to
9 set aside a portion of every meeting of the **【municipal governing】**
10 public body **【or board of education, the length of the portion to be**
11 **determined by the municipal governing body or board of**
12 **education,】** for public comment prior to consideration of items on
13 the agenda by the public body at the meeting in question, with such
14 comments being limited to items on the agenda and on any
15 governmental **【or school district】** issue that a member of the public
16 feels may be of concern to and within the authority of the **【residents**
17 **of the municipality or school district】** public body. However, such
18 comment period may be limited solely to items listed on the agenda
19 so long as an additional public comment period is set aside at the
20 meeting at which time a member of the public may discuss any
21 issue he or she feels may be of concern to and within the authority
22 of the public body. Each member of the public who wishes to speak
23 shall be allowed to speak for at least three minutes during the
24 comment period. However, the governing body may determine a
25 reasonable length of time for the public comment portion. A public
26 body, other than the Legislature, may require members of the public
27 to sign in before speaking, but only if signing in is permitted up to
28 the start of the comment period and is limited to providing the
29 person's name and municipality of residence. A public body, other
30 than the Legislature, shall permit all proceedings of any public
31 meeting to be recorded, photographed, audiotaped, videotaped,
32 broadcast or recorded for broadcast by any member of the public or
33 news organization, subject only to such reasonable rules as the
34 public body may adopt prior to the meeting to minimize undue
35 disruption to its meetings.

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

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

41 (2) Any matter in which the release of information would
42 legally impair a right to receive funds from the Government of the
43 United States.

44 (3) Any material the disclosure of which constitutes an
45 unwarranted invasion of individual privacy such as any records,
46 data, reports, recommendations, or other personal material of any
47 educational, training, social service, medical, health, custodial,

1 child protection, rehabilitation, legal defense, welfare, housing,
2 relocation, insurance and similar program or institution operated by
3 a public body pertaining to any specific individual admitted to or
4 served by such institution or program, including but not limited to
5 information relative to the individual's personal and family
6 circumstances, and any material pertaining to admission, discharge,
7 treatment, progress or condition of any individual, unless the
8 individual concerned (or, in the case of a minor or incompetent, his
9 guardian) shall request in writing that the same be disclosed
10 publicly.

11 (4) Any collective bargaining agreement, or the terms and
12 conditions which are proposed for inclusion in any collective
13 bargaining agreement, including the negotiation of the terms and
14 conditions thereof with employees or representatives of employees
15 of the public body.

16 (5) Any matter involving the purchase, lease or acquisition of
17 real property with public funds, the setting of banking rates or
18 investment of public funds, where **[it]** public discussion could
19 adversely affect the public interest if discussion of such matters
20 were disclosed.

21 (6) Any tactics and techniques utilized in protecting the safety
22 and property of the public, provided that their disclosure could
23 impair such protection. Any investigations of violations or
24 **[possible]** probable violations of the law.

25 (7) Any **[pending or anticipated litigation or contract**
26 **negotiation]** consultation with legal counsel concerning the legal
27 rights and duties of the public body with regard to current litigation
28 or litigation likely to be filed in which the public body is, or is
29 likely to become, a party, or concerning current or anticipated
30 contract negotiations, other than in subsection b. (4) herein in which
31 the public body is, or may become a party.

32 Any matters falling within the attorney-client privilege, to the
33 extent that confidentiality is required in order for the attorney to
34 exercise his ethical duties as a lawyer.

35 (8) Any matter involving the employment, appointment,
36 termination of employment, **[terms and conditions of employment,]**
37 evaluation of the performance of, promotion or disciplining of any
38 specific **[prospective public officer or employee or current]** public
39 officer or employee, prospective or current, employed or appointed
40 by the public body **[,** unless all the individual employees or
41 appointees whose rights could be adversely affected request in
42 writing that such matter or matters be discussed at a public
43 meeting**].** Public bodies shall give written notice of at least two
44 business days to any officer or employee, and any adversely
45 affected individual or individuals, in advance of any proposed
46 meeting at which his or her employment, appointment, termination,
47 evaluation of the performance of, promotion or discipline may be

1 discussed. The matter or matters pertaining to him or her shall be
2 discussed in closed session unless the employee and any adversely
3 affected individual or individuals, but not a third party
4 representative, requests in writing that the matter or matters be
5 discussed in open session. This paragraph shall not apply to a
6 public body's discussions or actions relating to tenure matters.

7 (9) Any deliberations of a public body occurring after a public
8 hearing that may result in the imposition of a specific civil penalty
9 upon the responding party or the suspension or loss of a license or
10 permit belonging to the responding party as a result of an act or
11 omission for which the responding party bears responsibility.

12 c. The grounds for exclusion of the public set forth in
13 subsection b. of this section shall be construed strictly to minimize
14 instances in which meetings or portions of meetings are closed to
15 the public. The public may not be excluded from a public body's
16 discussion of actual contracts or final contracts.

17 (cf: P.L.2008, c.14, s.1)

18

19 6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
20 as follows:

21 8. No public body shall exclude the public from any meeting to
22 discuss any matter described in subsection 7. b. until the public
23 body shall first adopt a resolution, at a meeting to which the public
24 shall be admitted:

25 a. Stating as specifically as possible the **[general]** nature of the
26 subject to be discussed and the specific basis for excluding the
27 public; and

28 b. Stating as precisely as possible, the time when and the
29 circumstances under which the discussion conducted in closed
30 session of the public body can be disclosed to the public.

31 (cf: P.L.1975, c.231, s.8)

32

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

35 9. The Legislature shall keep reasonably comprehensible
36 minutes of all its meetings showing the time and place, the members
37 present, the subjects considered, the actions taken, the vote of each
38 member, and any other information required to be shown in the
39 minutes by law, which shall be promptly available to the public to
40 the extent that making such matters public shall not be inconsistent
41 with section 7 of P.L.1975, c.231 (C.10:4-12). Each public body
42 and any subcommittee of a public body, other than the Legislature,
43 shall keep **[reasonably comprehensible]** comprehensive minutes of
44 all its meetings, including any portion of a meeting from which the
45 public was excluded pursuant to section 7 of P.L.1975, c.231
46 (C.10:4-12), showing, at a minimum, the time and place, the
47 members present, the subjects considered, the actions taken,

1 including all motions made, the identities of the moving and
2 seconding members, the vote of each member and each member's
3 stated reasons, if any, for his or her action or vote, the identity of
4 each member of the public who spoke and a summary of what was
5 said, and any other information required to be shown in the minutes
6 by law [, which] . Minutes shall be made available to the public as
7 soon as possible but no later than 45 days after the meeting to the
8 extent that making such matters public shall not be inconsistent
9 with section 7 of P.L.1975, c.231 (C.10:4-12). Any member of a
10 public body, other than the Legislature, who becomes aware of a
11 meeting held in violation of this act, including electronic
12 communications among members of a public body or subcommittee,
13 constituting a quorum thereof, that do not address a purely
14 administrative matter, shall inform the presiding member; minutes
15 of such meetings shall be made, and such electronic
16 communications, if any, shall be included with the minutes of the
17 meeting. Each public body, other than the Legislature, that
18 possesses sound recording devices that are available and
19 functioning shall cause to be recorded by those sound recording
20 devices only the public portions of all meetings of that public body,
21 including any emergency meeting held pursuant to section 4 of
22 P.L.1975, c.231 (C.10:4-9), and shall maintain possession of the
23 recordings for a period of time to be determined by the State
24 Records Committee to permit their use in litigation, to enforce the
25 provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for public
26 access. The unedited recordings shall be promptly made available
27 to the public, but not later than the 5th business day following the
28 meeting, to the extent that making such matters public shall not be
29 inconsistent with section 7 of this act.

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

31

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

34 10. a. Any action taken by a public body at a meeting which
35 does not conform with the provisions of this act shall be voidable in
36 a proceeding in lieu of prerogative writ in the Superior Court, which
37 proceeding may be brought by any person within 45 calendar days
38 after the [action sought to be voided has been made public] date of
39 the public meeting at which the minutes memorializing the action
40 sought to be voided are approved; provided, however, that a public
41 body may take corrective or remedial action by acting de novo at a
42 public meeting held in conformity with this act and other applicable
43 law regarding any action which may otherwise be voidable pursuant
44 to this section; and provided further that any action for which
45 advance published notice of at least 48 hours, excluding weekends
46 and State holidays, is provided as required by law shall not be

1 voidable solely for failure to conform with any notice required in
2 this act.

3 b. Any party, including any member of the public, may
4 institute a proceeding in lieu of prerogative writ in the Superior
5 Court to challenge any action taken by a public body on the grounds
6 that such action is void for the reasons stated in subsection a. of this
7 section, and if the court shall find that the action was taken at a
8 meeting which does not conform to the provisions of this act, the
9 court shall declare such action void. Any party, other than a public
10 body, that prevails in an action brought pursuant to this section may
11 be awarded the amount of reasonable attorney's fees incurred in
12 bringing the action. The cost of any attorney's fee awarded by the
13 court shall be paid by the public body.

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

15

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

18 11. Any person, including a member of the public, may apply to
19 the Superior Court for injunctive orders or other remedies to insure
20 compliance with the provisions of this act, and the court shall issue
21 such orders and provide such remedies as shall be necessary to
22 insure compliance with the provisions of this act. Any party, other
23 than a public body, that prevails in an action brought pursuant to
24 this section, may be awarded the amount of reasonable attorney's
25 fees incurred in bringing the action. The cost of any attorney's fee
26 awarded by the court shall be paid by the public body.

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

28

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

31 12. Any person who knowingly violates any of the foregoing
32 sections of this act shall be fined **[\$100.00] \$250.00** for the first
33 offense and no less than **[\$100.00 nor more than] \$500.00** for any
34 subsequent offense **[, recoverable by the State by]** . The Attorney
35 General or county prosecutor, or any member of the public, shall
36 have standing to bring an action in Superior Court to prove that a
37 violation of P.L.1975, c.231 (C.10:4-6 et seq.) has occurred.

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

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

10 (cf: P.L.1994, c.58, s.41)

11

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

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

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

31

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

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

1 payment shall be required. All requests for notices made under this
2 section shall terminate at midnight on December 31 of each year,
3 but shall be subject to renewal upon a new request to the public
4 body.

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

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

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

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

45
46 16. (New section) a. Every public body, other than the
47 Legislature, that maintains or publishes an Internet site, or

1 maintains or publishes web pages on an Internet site operated by a
2 government or non-public entity, shall have posted on that site: the
3 public body's annual schedule of regular meetings and its agendas
4 of those meetings and revisions thereto; notice of any meeting held
5 without adequate notice pursuant to one of the exceptions to the
6 adequate notice requirement listed in subsection b. of section 4 of
7 P.L.1975, c.231 (C.10:4-9); the minutes, prepared pursuant to
8 section 9 of P.L.1975, c.231 (C.10:4-14), of each meeting of the
9 public body, including the minutes of the closed portion of any
10 meeting to the extent that those minutes have been made available
11 to the public, which shall remain posted on the site for a period of at
12 least five years from the date of posting; resolutions and ordinances,
13 to the extent they are not already set forth in the minutes; any
14 resolution adopted by the public body for the purpose of complying
15 with the provisions of section 8 of P.L.1975, c.231 (C.10:4-13),
16 which shall remain posted on the site for a period of at least five
17 years from the date of posting; and, in the case of municipalities
18 and counties, their ordinances.

19 b. A public body that does not maintain or publish an Internet
20 site and does not maintain or publish web pages on an Internet site
21 operated by a government or non-public entity shall promptly
22 provide the information specified in subsection a. of this section to
23 the Secretary of State for posting on the Internet site created
24 pursuant to section 13 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

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
29 a link thereto on its own website.

30 d. Public bodies that maintain an Internet site or pages on that
31 site pursuant to this section shall provide any requestor with free
32 paper copies of any information that is required to be posted on the
33 Internet 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 Government Records
36 Council.

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 provide adequate notice
46 for all meetings of subcommittees of the public body and keep
47 comprehensive minutes thereof in the manner required by section 9

1 of P.L.1975, c.231 (C.10:4-14). A public body may determine
2 whether meetings of subcommittees shall be open to the public.

3

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

6

7

8

STATEMENT

9

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