

SENATE, No. 2511

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 14, 2013

Senator LORETTA WEINBERG
District 37 (Bergen)
Senator JOSEPH PENNACCHIO
District 26 (Essex, Morris and Passaic)

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

As introduced.



(Sponsorship Updated As Of: 2/8/2013)

S2511 WEINBERG, PENNACCHIO

2

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

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

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

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

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

30 The Legislature, therefore, declares that it is the understanding
31 and the intention of the Legislature that in order to be covered by
32 the provisions of this act a public body must be organized by law
33 and be collectively empowered as a multi-member voting body to
34 spend public funds or affect persons' rights; that, therefore, informal
35 or purely advisory bodies with no effective authority are not
36 covered, nor are groupings composed of a public official with
37 subordinates or advisors, who are not empowered to act by vote
38 such as a mayor or the Governor meeting with department heads or
39 cabinet members, that specific exemptions are provided for the
40 Judiciary, parole bodies, the State Commission of Investigation, the
41 Apportionment Commission and political party organization; that
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
45 subcommittee of a public body may be subject to certain of the act's

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

Matter underlined thus is new matter.

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

6
7 2. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read
8 as follows:

9 3. As used in this act:

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

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

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

45 d. "Adequate notice" means written advance notice of at least
46 48 hours, excluding weekends and State holidays, giving the time,
47 date, location and **[, to the extent known,]** the agenda of any
48 regular, special or rescheduled meeting, which notice shall

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

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

1 did not appear on the agenda for that meeting, and why delaying
2 consideration of the item is not in the public interest, except that the
3 Legislature may add an item to its agenda at any time.

4 f. “Subcommittee” means any subordinate committee of a
5 public body, except the Legislature, regardless of label, that is
6 formally created by that body, comprised of two or more members,
7 but less than a quorum, of the public body, and recognized by the
8 public body as a subcommittee thereof.

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

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

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

28

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

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

35 b. Upon the affirmative vote of **【three quarters】** two-thirds of
36 the members present a public body may hold a meeting
37 notwithstanding the failure to provide adequate notice if:

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

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

44 (3) notice of such meeting is provided as soon as possible
45 following the calling of such meeting by posting written notice of
46 the same on the public body’s Internet site, if the public body has
47 established an Internet site and in the public place described in
48 section 3. d. above, and also by notifying the two newspapers

1 described in section 3. d. by telephone, ~~【telegram,】~~ fax machine,
2 electronic mail, or by delivering a written notice of same to such
3 newspapers; and

4 (4) ~~【either (a)】~~ the public body could not reasonably have
5 foreseen the need for such meeting at a time when adequate notice
6 could have been provided ~~【; or (b) although the public body could~~
7 ~~reasonably have foreseen the need for such meeting at a time when~~
8 ~~adequate notice could have been provided, it nevertheless failed to~~
9 ~~do so】.~~

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

11

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

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

19 As used in this section, "electronic notice" means advance notice
20 available to the public via electronic transmission of at least 48
21 hours, excluding weekends and State holidays, giving the time,
22 date, location and ~~【, to the extent known,】~~ the agenda of any
23 regular, special or rescheduled meeting, which notice shall
24 accurately state whether formal action may or may not be taken at
25 such meeting.

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

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

30

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

33 7. a. Except as provided by subsection b. of this section all
34 meetings of public bodies shall be open to the public at all times.
35 Except for communications that are purely administrative or
36 procedural in nature, no member of a public body, other than the
37 Legislature, during any meeting of that public body to which the
38 public is admitted, shall communicate privately, by means of
39 communication equipment, including electronic mail, instant
40 messaging or similar technologies, including directly or indirectly
41 through staff, with any other member of the public body about any
42 matter on the agenda for that meeting, and no member shall
43 communicate privately with any other person, other than staff or
44 legal counsel, about any matter on the agenda for that meeting by
45 means of communication equipment, including electronic mail,
46 instant messaging or similar technologies. Nothing in this act shall
47 be construed to limit the discretion of a public body to permit,

1 prohibit or regulate the active participation of the public at any
2 meeting, except that a **【municipal governing】 public body 【and a**
3 **board of education】**, other than the Legislature, shall be required to
4 set aside a portion of every meeting of the **【municipal governing】**
5 public body 【or board of education, the length of the portion to be
6 determined by the municipal governing body or board of
7 education,】 for public comment prior to consideration of items on
8 the agenda by the public body at the meeting in question, with such
9 comments being limited to items on the agenda and on any
10 governmental 【or school district】 issue that a member of the public
11 feels may be of concern to and within the authority of the 【residents
12 of the municipality or school district】 public body. However, such
13 comment period may be limited solely to items listed on the agenda
14 so long as an additional public comment period is set aside at the
15 meeting at which time a member of the public may discuss any
16 issue he or she feels may be of concern to and within the authority
17 of the public body. Each member of the public who wishes to speak
18 shall be allowed to speak for at least three minutes during the
19 comment period, provided that a public body may limit the amount
20 of time that a member of the public may speak in excess of three
21 minutes. A public body, other than the Legislature, may require
22 members of the public to sign in before speaking, but only if
23 signing in is permitted up to the start of the comment period and is
24 limited to providing the person's name and municipality of
25 residence. A public body, other than the Legislature, shall permit
26 all proceedings of any public meeting to be recorded, photographed,
27 audiotaped, videotaped, broadcast or recorded for broadcast by any
28 member of the public or news organization, subject only to such
29 reasonable rules as the public body may adopt prior to the meeting
30 to minimize undue disruption to its meetings.

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

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

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

39 (3) Any material the disclosure of which constitutes an
40 unwarranted invasion of individual privacy such as any records,
41 data, reports, recommendations, or other personal material of any
42 educational, training, social service, medical, health, custodial,
43 child protection, rehabilitation, legal defense, welfare, housing,
44 relocation, insurance and similar program or institution operated by
45 a public body pertaining to any specific individual admitted to or
46 served by such institution or program, including but not limited to
47 information relative to the individual's personal and family

1 circumstances, and any material pertaining to admission, discharge,
2 treatment, progress or condition of any individual, unless the
3 individual concerned (or, in the case of a minor or incompetent, his
4 guardian) shall request in writing that the same be disclosed
5 publicly.

6 (4) Any collective bargaining agreement, or the terms and
7 conditions which are proposed for inclusion in any collective
8 bargaining agreement, including the negotiation of the terms and
9 conditions thereof with employees or representatives of employees
10 of the public body.

11 (5) Any matter involving the purchase, lease or acquisition of
12 real property with public funds, the setting of banking rates or
13 investment of public funds, where **[it]** public discussion could
14 adversely affect the public interest if discussion of such matters
15 were disclosed.

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

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

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

30 (8) Any matter involving the employment, appointment,
31 termination of employment, **[terms and conditions of employment,]**
32 evaluation of the performance of, promotion or disciplining of any
33 specific **[prospective public officer or employee or current]** public
34 officer or employee, prospective or current, employed or appointed
35 by the public body **[,** unless all the individual employees or
36 appointees whose rights could be adversely affected request in
37 writing that such matter or matters be discussed at a public
38 meeting**].** Public bodies shall give written notice of at least two
39 business days to any officer or employee, and any adversely
40 affected individual or individuals, in advance of any proposed
41 meeting at which his or her employment, appointment, termination,
42 evaluation of the performance of, promotion or discipline may be
43 discussed. The matter or matters pertaining to him or her shall be
44 discussed in closed session unless the employee and any adversely
45 affected individual or individuals, but not a third party
46 representative, requests in writing that the matter or matters be

1 discussed in open session. This paragraph shall not apply to a
2 public body's discussions or actions relating to tenure matters.

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

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

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

14

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

17 8. No public body shall exclude the public from any meeting to
18 discuss any matter described in subsection 7. b. until the public
19 body shall first adopt a resolution, at a meeting to which the public
20 shall be admitted:

21 a. Stating as specifically as possible the **【general nature of the】**
22 subject to be discussed and the specific basis for excluding the
23 public; and

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

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

28

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

31 9. The Legislature shall keep reasonably comprehensible
32 minutes of all its meetings showing the time and place, the members
33 present, the subjects considered, the actions taken, the vote of each
34 member, and any other information required to be shown in the
35 minutes by law, which shall be promptly available to the public to
36 the extent that making such matters public shall not be inconsistent
37 with section 7 of P.L.1975, c.231 (C.10:4-12). Each public body,
38 other than the Legislature, shall **【keep reasonably comprehensible】**
39 cause the public body to keep comprehensive minutes of all its
40 meetings, including any portion of a meeting from which the public
41 was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),
42 showing, at a minimum, the time and place, the members present,
43 the subjects considered, the actions taken, including all motions
44 made, the identities of the moving and seconding members, the vote
45 of each member and each member's stated reasons, if any, for his or
46 her action or vote, the identity of each member of the public who
47 spoke and a summary of what was said, and any other information
48 required to be shown in the minutes by law **【, which】** . Minutes

1 shall be made available to the public as soon as possible but not
2 later than 60 days after the meeting, or by the second meeting of the
3 public body occurring after the meeting for which the minutes were
4 prepared, whichever occurs later, to the extent that making such
5 matters public shall not be inconsistent with section 7 of P.L.1975,
6 c.231 (C.10:4-12). Any member of a public body, other than the
7 Legislature, who becomes aware of a meeting held in violation of
8 this act, including electronic communications among members of a
9 public body or subcommittee, constituting a quorum thereof, that do
10 not address a purely administrative matter, shall inform the
11 presiding member who shall ensure that minutes of such meetings
12 shall be made, and such electronic communications, if any, shall be
13 included with the minutes of the meeting. Each public body, other
14 than the Legislature, that possesses sound recording devices that are
15 available and functioning shall cause to be recorded by those sound
16 recording devices only the public portions of all meetings of that
17 public body, including any emergency meeting held pursuant to
18 section 4 of P.L.1975, c.231 (C.10:4-9), and shall maintain
19 possession of the recordings for a period of time to be determined
20 by the State Records Committee to permit their use in litigation, to
21 enforce the provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for
22 public access. The unedited recordings shall be promptly made
23 available to the public, but not later than the 5th business day
24 following the meeting, to the extent that making such matters public
25 shall not be inconsistent with section 7 of this act.

26 A subcommittee of a public body, other than the Legislature,
27 shall prepare reports of its meetings which shall be filed with the
28 public body pursuant to a schedule prepared by the public body,
29 except that every subcommittee shall be required to file at least one
30 report with the public body. A report shall include a statement of
31 the number of meetings of the subcommittee held since its last
32 report, the names of the members of the subcommittee, and a
33 concise statement of the matters discussed. A report of a
34 subcommittee shall be available for public access in the same
35 manner, and subject to the same limitations on access, as minutes of
36 a meeting of a public body.

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

38

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

41 10. a. Any action taken by a public body at a meeting which
42 does not conform with the provisions of this act shall be voidable in
43 a proceeding in lieu of prerogative writ in the Superior Court, which
44 proceeding may be brought by any person within 45 calendar days
45 after the **【action sought to be voided has been made public】** date of
46 the public meeting at which the minutes memorializing the action
47 sought to be voided are approved; provided, however, that a public
48 body may take corrective or remedial action by acting de novo at a

1 public meeting held in conformity with this act and other applicable
2 law regarding any action which may otherwise be voidable pursuant
3 to this section; and provided further that any action for which
4 advance published notice of at least 48 hours, excluding weekends
5 and State holidays, is provided as required by law shall not be
6 voidable solely for failure to conform with any notice required in
7 this act.

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

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

20

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

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

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

33

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

36 12. Any person who knowingly violates any of the foregoing
37 sections of this act shall be fined ~~[\$100.00]~~ \$250.00 for the first
38 offense and no less than ~~[\$100.00 nor more than]~~ \$500.00 for any
39 subsequent offense ~~[, recoverable by the State by]~~ . A fine shall be
40 paid by the individual found to have committed the violation out of
41 that individual's personal funds. Under no circumstances shall
42 public funds be used to pay a fine or to reimburse a person who has
43 paid, or will pay, a fine for the cost of that fine. The Attorney
44 General or county prosecutor, or any member of the public, shall
45 have standing to bring an action in Superior Court to prove that a
46 violation of P.L.1975, c.231 (C.10:4-6 et seq.) has occurred.

1 An action may be brought in a summary proceeding under ["the
2 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
3 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
4 The Superior Court shall have jurisdiction to enforce said penalty
5 upon complaint of the Attorney General or the county prosecutor or
6 any member of the public. Whenever a member of a public body, or
7 any member of the staff of the public body, believes that a meeting
8 of such body is being held in violation of the provisions of this act,
9 he shall immediately state this at the meeting together with specific
10 reasons for his belief which shall be recorded in the minutes of that
11 meeting, and if the meeting is one from which the public is
12 excluded, the member's or staff member's statement and reasons
13 shall also be announced at and recorded in the minutes of the next
14 meeting of the public body at which the public is not excluded.
15 Whenever such a member's or staff member's objections to the
16 holding of such meeting are overruled by the majority of those
17 present, such a member or staff member may continue to participate
18 at such meeting without penalty provided he has complied with the
19 duties imposed upon him by this section.
20 (cf: P.L.1994, c.58, s.41)

21
22 11. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
23 read as follows:

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

41
42 12. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
43 read as follows:

44 14. Any person may request that a public body mail or
45 electronically mail to him, at his option, notice of agendas of all
46 meetings, copies of any regular meeting schedule or revision
47 described in section 13 of this act and any advance written notice
48 described in subsection 3. d. of this act of any regular, special or

1 rescheduled meeting of such body, and upon prepayment by such
2 person of a reasonable sum, if any has been fixed by resolution of
3 the public body to cover the costs of providing such notice, the
4 public body shall mail to such person written advance notice of all
5 of its meetings within the time prescribed by subsection 3. d. herein,
6 subject only to the exceptions set forth in subsection 4. b. herein.
7 Such resolution may provide that notice requested by the news
8 media shall be mailed to such news media free of charge. If a
9 person requests advance written notice by electronic mail, no
10 payment shall be required. All requests for notices made under this
11 section shall terminate at midnight on December 31 of each year,
12 but shall be subject to renewal upon a new request to the public
13 body.

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

15

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

37

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

46

47 15. (New section) In addition to any other penalties imposed by
48 law, an appointed member of a public body may be removed from

1 the public body by the appointing authority because of two or more
2 violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
3 significant denial of the public's right of access as provided by that
4 act upon a determination by a court of competent jurisdiction that a
5 denial of access was significant.

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

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

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

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

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

1 17. (New section) When a public body provides information on
2 the Internet, it shall make a reasonable effort to make the existence
3 and location of its site or pages known to members of the public
4 within its jurisdiction by, at a minimum, including such information
5 in its required written public notices, agendas, and minutes and by
6 announcing it at its public meetings.
7

8 18. (New section) A public body shall determine whether
9 meetings of subcommittees shall be open to the public. For a
10 meeting of a subcommittee that will be open to the public, the
11 public body shall provide adequate notice of that meeting.

12 A public body shall keep reports of meetings of subcommittees
13 in the manner required by section 9 of P.L.1975, c.231 (C.10:4-14);
14 however, other requirements applicable to meetings of public
15 bodies shall not apply to meetings of subcommittees.
16

17 19. This act shall take effect on the 120th day after the date of
18 enactment.
19
20

21 STATEMENT
22

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