

# SENATE, No. 106

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**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**

Introduced Pending Technical Review by Legislative Counsel.



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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 to  
42 be covered by the provisions of this act a meeting must be open to  
43 all the public body's members, and the members present must intend  
44 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 any  
21 political party committee organized under Title 19 of the Revised  
22 Statutes. "Public body" also means, but is not limited to, an  
23 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, or  
35 attended by, or open to, all members of a subcommittee if the public  
36 body has determined that the meetings of that subcommittee shall  
37 be open to the public in accordance with section 18 of P.L. \_\_\_\_\_,

38 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), and held  
39 with the intent, on the part of the members of the body present, to  
40 discuss or act as a unit upon the specific public business of that  
41 body. Meeting does not mean or include any such gathering (1)  
42 attended by less than **[an effective majority of the members of]** a  
43 quorum of a public body, or (2) attended by or open to all the  
44 members of three or more similar public bodies at a convention or  
45 similar gathering. Meeting does not include a chance encounter or  
46 any gathering at which members of a public body or of a  
47 subcommittee do not discuss or act upon the public business of that  
48 public body or subcommittee.

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- 1 c. "Public business" means and includes all matters which  
2 relate in any way, directly or indirectly, to the performance of the  
3 public body's functions or the conduct of its business.
- 4 d. "Adequate notice" means written advance notice of at least  
5 48 hours, giving the time, date, location and **【**, to the extent  
6 known,**】** the agenda of any regular, special or rescheduled meeting,  
7 which notice shall accurately state whether formal action may or  
8 may not be taken and which shall be (1) prominently posted on the  
9 public body's Internet site, if the public body has established an  
10 Internet site, and in at least one public place reserved for such or  
11 similar announcements, (2) mailed, telephoned, **【**telegrammed**】**  
12 faxed, mailed electronically, or hand delivered to at least two  
13 newspapers which newspapers shall be designated by the public  
14 body to receive such notices because they have the greatest  
15 likelihood of informing the public within the area of jurisdiction of  
16 the public body of such meetings, one of which shall be the official  
17 newspaper, where any such has been designated by the public body  
18 or if the public body has failed to so designate, where any has been  
19 designated by the governing body of the political subdivision whose  
20 geographic boundaries are coextensive with that of the public body  
21 and (3) filed with the clerk of the municipality when the public  
22 body's geographic boundaries are coextensive with that of a single  
23 municipality, with the clerk of the county when the public body's  
24 geographic boundaries are coextensive with that of a single county,  
25 and with the Secretary of State if the public body has Statewide  
26 jurisdiction. For any other public body the filing shall be with the  
27 clerk or chief administrative officer of such other public body and  
28 each municipal or county clerk of each municipality or county  
29 encompassed within the jurisdiction of such public body. Where  
30 annual notice or revisions thereof in compliance with section 13 of  
31 this act set forth the location of any meeting, no further notice shall  
32 be required for such meeting, except for notice pertaining to  
33 agendas and formal action on the public body's Internet site, if the  
34 body has established an Internet site, and posting in at least one  
35 public place reserved for such or similar announcements, transmittal  
36 to the newspapers described in paragraph (2) of this subsection and  
37 to any member of the public who shall have requested such notice.  
38 Notice shall not be considered "adequate notice" within the  
39 meaning of this subsection unless it includes the estimated starting  
40 time, as nearly so as can be established, for the beginning of the  
41 portion of any meeting from which the public is not excluded.
- 42 e. "Agenda" means the list of all items of business to be  
43 discussed or voted on at a public meeting. For purposes of  
44 providing adequate notice, agendas shall include each individual  
45 item to be discussed or acted upon, and a brief description thereof,  
46 and shall identify the names of the parties to and approximate dollar  
47 amounts of any contracts, including employment contracts, to be  
48 discussed or acted upon. No public body shall act upon a matter

1 that is not listed on the agenda. In addition, a public body, upon the  
2 affirmative vote of a majority of the members present at a meeting,  
3 may add an item to the agenda for that meeting when necessary to  
4 deal with a matter of such urgency and importance that a delay for  
5 the purpose of providing adequate notice would be likely to result  
6 in substantial harm to the public interest, and provided that the  
7 minutes contain a statement that explains the reason for adding that  
8 item to the agenda, why the item did not appear on the agenda for  
9 that meeting, and why delaying consideration of the item would be  
10 likely to result in substantial harm to the public interest, except that  
11 the Legislature may add an item to its agenda at any time.

12 Whenever a public body releases to the public an agenda of a  
13 regular, special, or rescheduled meeting of that public body,  
14 pursuant to this subsection, that includes a reference to an  
15 attachment, appendix, or other document that is a government  
16 record, the agenda shall include a statement that the attachment,  
17 appendix, or other document shall be available to the public for  
18 inspection, copying, or the purchase of copies. If any member of the  
19 public, at least 24 hours prior to a meeting, requests a copy of any  
20 attachment, appendix, or other document that is a government record  
21 referenced in an agenda, the custodian thereof shall send an electronic  
22 copy to the requestor. If such a request is received within 24 hours  
23 prior to a meeting, an attachment, appendix, or other document  
24 requested shall be made available to the requestor at the meeting of the  
25 public body.

26 f. "Subcommittee" means any subordinate committee of a  
27 public body, except the Legislature, regardless of label, that is  
28 formally created by that body, comprised of two or more members,  
29 but less than a quorum, of the public body.

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

1 h. "Quorum" means a majority of the full membership of a  
2 public body or of a subcommittee.

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

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

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

15 b. Upon the affirmative vote of three-quarters of the members  
16 present a public body may hold a meeting notwithstanding the  
17 failure to provide adequate notice if:

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

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

24 (3) notice of such meeting is provided as soon as possible  
25 following the calling of such meeting by posting written notice of  
26 the same on the public body's Internet site, if the public body has  
27 established an Internet site and in the public place described in  
28 subsection d. of section 3 [d.] of P.L.1975, c.231 (C.10:4-8) above,  
29 and also by notifying the two newspapers described in section 3. d.  
30 by telephone, **[telegram,]** fax machine, electronic mail, or by  
31 delivering a written notice of same to such newspapers; and

32 (4) **[either (a)]** the public body could not reasonably have  
33 foreseen the need for such meeting at a time when adequate notice  
34 could have been provided **;** or (b) although the public body could  
35 reasonably have foreseen the need for such meeting at a time when  
36 adequate notice could have been provided, it nevertheless failed to  
37 do so**].**

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

39  
40 4. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read  
41 as follows:

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

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

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

11  
12 5. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read  
13 as follows:

14 7. a. Except as provided by subsection b. of this section all  
15 meetings of public bodies shall be open to the public at all times.  
16 Except for communications that are purely administrative or  
17 procedural in nature, no member of a public body, other than the  
18 Legislature, during any meeting of that public body to which the  
19 public is admitted, shall communicate privately, by means of  
20 communication equipment, including electronic mail, instant  
21 messaging or similar technologies, including directly or indirectly  
22 through staff or legal counsel, with any other member of the public  
23 body about any matter on the agenda for that meeting, and no  
24 member shall communicate privately with any other person, other  
25 than staff or legal counsel, about any matter on the agenda for that  
26 meeting by means of communication equipment, including  
27 electronic mail, instant messaging or similar technologies. Nothing  
28 in this act shall be construed to limit the discretion of a public body  
29 to permit, prohibit, or regulate the active participation of the public  
30 at any meeting, except that a **【municipal governing】** public body  
31 **【and a board of education】** , other than the Legislature, shall be  
32 required to set aside a portion of every meeting of the **【municipal**  
33 **governing】** public body **【or board of education,** the length of the  
34 portion to be determined by the municipal governing body or board  
35 of education,**】** for public comment at the meeting in question, with  
36 such comments being limited to items on the agenda and on any  
37 governmental **【or school district】** issue that a member of the public  
38 feels may be of concern to and within the authority of the **【residents**  
39 of the municipality or school district】 public body. A public body,  
40 other than the Legislature, shall permit all proceedings of any  
41 public meeting to be recorded, photographed, audiotaped,  
42 videotaped, broadcast or recorded for broadcast by any member of  
43 the public or news organization, subject only to such reasonable  
44 rules as the public body may adopt prior to the meeting to minimize  
45 undue disruption to its meetings.

46 A public body shall prepare a written policy that is intended to  
47 maximize public participation and that addresses the amount of time

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

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

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

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

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

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

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

43 (5) matter involving the purchase, lease, or acquisition of real  
44 property with public funds, the setting of banking rates, or  
45 investment of public funds, if **[it]** public discussion could adversely  
46 affect the public interest if discussion of the matters were disclosed;

47 (6) tactics and techniques utilized in protecting the safety and  
48 property of the public, provided that their disclosure could impair



1 that protection, or investigations of violations or **possible**  
2 probable violations of the law;

3 (7) **pending or anticipated litigation or contract negotiation**  
4 consultation with legal counsel concerning the legal rights and  
5 duties of the public body with regard to current litigation or  
6 litigation likely to be filed in connection with any executed contract  
7 which the public body is, or is likely to become, a party, or  
8 concerning current or anticipated contract negotiations, other than  
9 in subsection b. (4) herein in which the public body is, or may  
10 become, a party, or matters falling within the attorney-client  
11 privilege, to the extent that confidentiality is required in order for  
12 the attorney to exercise his ethical duties as a lawyer;

13 (8) matter involving the employment, appointment, termination  
14 of employment, **terms and conditions of employment,** evaluation  
15 of the performance of, promotion, or disciplining of any specific  
16 **prospective public officer or employee or current** public officer  
17 or employee, prospective or current, employed or appointed by the  
18 public body **,** unless all the individual employees or appointees  
19 whose rights could be adversely affected request in writing that the  
20 matter or matters be discussed at a public meeting**].** Public bodies  
21 shall give written notice of at least two business days to any officer  
22 or employee, and any adversely affected individual or individuals,  
23 in advance of any proposed meeting at which his or her  
24 employment, appointment, termination, evaluation of the  
25 performance of, promotion or discipline may be discussed. The  
26 matter or matters pertaining to him or her shall be discussed in  
27 closed session unless the officer or employee and any adversely  
28 affected individual or individuals, but not a third party  
29 representative, requests in writing that the matter or matters be  
30 discussed in open session. This paragraph shall not apply to a  
31 public body's discussions or actions relating to tenure matters if any  
32 statute or collective bargaining agreement shall provide otherwise.

33 (9) deliberations of a public body occurring after a public  
34 hearing that may result in the imposition of a specific civil penalty  
35 upon the responding party or the suspension or loss of a license or  
36 permit belonging to the responding party as a result of an act or  
37 omission for which the responding party bears responsibility.

38 c. The grounds for exclusion of the public set forth in  
39 subsection b. of this section shall be construed strictly to minimize  
40 instances in which meetings or portions of meetings are closed to  
41 the public. The public may not be excluded from a public body's  
42 discussion of actual contracts or executed contracts, except that a  
43 public body may go into closed session for consultations with legal  
44 counsel, pursuant to paragraph (7) of subsection b. of this section,  
45 when there is current litigation, or litigation is likely to be filed,  
46 concerning an actual or executed contract.

47 (cf: P.L.2013, c.103, s.57)

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

3       8. No public body shall exclude the public from any meeting to  
4 discuss any matter described in subsection b. of section 7 [b.] of  
5 P.L.1975, c.231 (C.10:4-12) until the public body shall first adopt a  
6 resolution, at a meeting to which the public shall be admitted:

7       a. Stating the **【general nature of the】** reasonably specific  
8 subject to be discussed and the reasonably specific basis for  
9 excluding the public; and

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

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

14

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

17       9. The Legislature shall keep reasonably comprehensible  
18 minutes of all its meetings showing the time and place, the members  
19 present, the subjects considered, the actions taken, the vote of each  
20 member, and any other information required to be shown in the  
21 minutes by law, which shall be promptly available to the public to  
22 the extent that making such matters public shall not be inconsistent  
23 with section 7 of P.L.1975, c.231 (C.10:4-12). Each public body,  
24 other than the Legislature, shall **【keep reasonably comprehensible】**  
25 cause the public body to keep comprehensive minutes of all its  
26 meetings, including any portion of a meeting from which the public  
27 was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),  
28 showing, at a minimum, the time and place, the members present,  
29 the subjects considered, the actions taken, including all motions  
30 made, the identities of the moving and seconding members, the vote  
31 of each member and each member's stated reasons, if any, for his or  
32 her action or vote, the identity of each member of the public who  
33 spoke and a summary of what was said, and any other information  
34 required to be shown in the minutes by law **【, which】** . Minutes  
35 shall be made available to the public as soon as possible but not  
36 later than 15 days after the next meeting of the public body  
37 occurring after the meeting for which the minutes were prepared, to  
38 the extent that making such matters public shall not be inconsistent  
39 with section 7 of P.L.1975, c.231 (C.10:4-12). Any member of a  
40 public body, other than the Legislature, who becomes aware of a  
41 meeting held in violation of P.L.1975, c.231 (C.10:4-6 et seq.),  
42 including electronic communications among members of a public  
43 body or of a subcommittee which the public body has determined  
44 shall hold meetings open to the public in accordance with section 18  
45 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
46 constituting a quorum thereof, that do not address a purely  
47 administrative matter, shall inform the presiding member who shall  
48 ensure that minutes of such meetings shall be made, and such

1 electronic communications, if any, shall be filed with the clerk of the  
2 public body for a period of time to be determined by the State  
3 Records Committee to permit their use in litigation, to enforce the  
4 provisions of P.L.1975, c.231 (C.10:4-6 et seq.), or for public  
5 access. Each public body, other than the Legislature, that possesses  
6 sound recording devices that are available and functioning shall  
7 cause to be recorded by those sound recording devices only the  
8 public portions of all meetings of that public body, including any  
9 emergency meeting held pursuant to section 4 of P.L.1975, c.231  
10 (C.10:4-9), and shall maintain possession of the recordings for a  
11 period of time to be determined by the State Records Committee to  
12 permit their use in litigation, to enforce the provisions of P.L.1975,  
13 c.231 (C.10:4-6 et seq.), or for public access. Sound recordings, or  
14 any video recordings, shall reflect the public portions of meetings in  
15 their entirety, including the public comment portions of meetings.  
16 The unedited recordings shall be promptly made available to the  
17 public, but not later than the 5th business day following the  
18 meeting, to the extent that making such matters public shall not be  
19 inconsistent with section 7 of this act. Public bodies shall only  
20 present the recordings as official and authentic representations of  
21 the public meetings if presented in their unedited form. Public  
22 bodies, if presenting edited versions of the recording, shall  
23 conspicuously label such as an edited version and shall include a  
24 notification that the official unedited recording is available on  
25 request from the public body.

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 each quarter. A report shall include a  
31 statement of the number of meetings of the subcommittee held since  
32 its last 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. A subcommittee that has given an oral  
37 report at a meeting of the public body of which it is a subcommittee  
38 shall be excused from providing the public body with a written  
39 report for that quarter.

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

41

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

44 10. a. Any action taken by a public body at a meeting which  
45 does not conform with the provisions of this act shall be voidable in  
46 a proceeding in lieu of prerogative writ in the Superior Court, which  
47 proceeding may be brought by any person within 45 calendar days  
48 after the **【action sought to be voided has been made public】** date of

1 the public meeting at which the minutes memorializing the action  
2 sought to be voided are approved and put online pursuant to section  
3 16 of P.L. , c. (C. ) (pending before the Legislature as this  
4 bill); provided, however, that a public body may take corrective or  
5 remedial action by acting de novo at a public meeting held in  
6 conformity with this act and other applicable law regarding any  
7 action which may otherwise be voidable pursuant to this section;  
8 and provided further that any action for which advance published  
9 notice of at least 48 hours is provided as required by law shall not  
10 be voidable solely for failure to conform with any notice required in  
11 this act.

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

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

24

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

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

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

37

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

40 12. Any person who knowingly violates any of the foregoing  
41 sections of this act shall be fined **[\$100.00]** \$250.00 for the first  
42 offense and no less than **[\$100.00** nor more than **]** \$500.00 for any  
43 subsequent offense **[, recoverable by the State by]** . A fine shall be  
44 paid by the individual found to have committed the violation out of  
45 that individual's personal funds. Under no circumstances shall  
46 public funds, or contributions as defined in subsection b. of section  
47 3 of P.L.1973, c.83 (C.19:44A-3) of "The New Jersey Campaign  
48 Contributions and Expenditures Reporting Act," be used to pay a

1 fine or to reimburse a person who has paid, or will pay, a fine for  
2 the cost of that fine. The Attorney General or county prosecutor, or  
3 any member of the public, shall have standing to bring an action in  
4 Superior Court to prove that a violation of P.L.1975, c.231 (C.10:4-  
5 6 et seq.) has occurred.

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

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

26

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

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

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

46

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

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

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

20

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

42

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

1 of previously withheld minutes can now be disclosed to the public,  
2 it shall make that part thereof accessible to the public.

3

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

11

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

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

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

46 d. Public bodies that maintain an Internet site or pages on that site  
47 pursuant to this section shall provide any requestor with free paper

1 copies of any information that is required to be posted on the Internet  
2 site but is not so posted.

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

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

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

25 A public body shall keep reports of meetings of subcommittees  
26 open to the public in the manner required by section 9 of P.L.1975,  
27 c.231 (C.10:4-14).

28  
29 19. This act shall take effect on the 120th day after the date of  
30 enactment.

31

32

33

#### STATEMENT

34

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