

ASSEMBLY, No. 5395

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

Enables municipality to allow newly elected member of municipal governing body to participate in meeting where public is excluded.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** enabling a municipality to allow newly elected municipal
 2 governing body members to participate in meetings where the
 3 public is excluded and amending 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 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
 9 as follows:

10 7. a. Except as provided by subsection b. of this section all
 11 meetings of public bodies shall be open to the public at all times.
 12 Nothing in this act shall be construed to limit the discretion of a
 13 public body to permit, prohibit, or regulate the active participation
 14 of the public at any meeting, except that a municipal governing
 15 body and a board of education shall be required to set aside a
 16 portion of every meeting of the municipal governing body or board
 17 of education, the length of the portion to be determined by the
 18 municipal governing body or board of education, for public
 19 comment on any governmental or school district issue that a
 20 member of the public feels may be of concern to the residents of the
 21 municipality or school district.

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

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

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

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

43 (4) collective bargaining agreement, or the terms and conditions
 44 which are proposed for inclusion in any collective bargaining

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 agreement, including the negotiation of the terms and conditions
2 thereof with employees or representatives of employees of the
3 public body;

4 (5) matter involving the purchase, lease, or acquisition of real
5 property with public funds, the setting of banking rates, or
6 investment of public funds, if it could adversely affect the public
7 interest if discussion of the matters were disclosed;

8 (6) tactics and techniques utilized in protecting the safety and
9 property of the public, provided that their disclosure could impair
10 that protection, or investigations of violations or possible violations
11 of the law;

12 (7) pending or anticipated litigation or contract negotiation other
13 than in subsection b. (4) herein in which the public body is, or may
14 become, a party, or matters falling within the attorney-client
15 privilege, to the extent that confidentiality is required in order for
16 the attorney to exercise his ethical duties as a lawyer;

17 (8) matter involving the employment, appointment, termination
18 of employment, terms and conditions of employment, evaluation of
19 the performance of, promotion, or disciplining of any specific
20 prospective public officer or employee or current public officer or
21 employee employed or appointed by the public body, unless all the
22 individual employees or appointees whose rights could be adversely
23 affected request in writing that the matter or matters be discussed at
24 a public meeting; or

25 (9) deliberations of a public body occurring after a public
26 hearing that may result in the imposition of a specific civil penalty
27 upon the responding party or the suspension or loss of a license or
28 permit belonging to the responding party as a result of an act or
29 omission for which the responding party bears responsibility.

30 c. A municipality may, by resolution or ordinance, allow a
31 newly elected member of the municipality's governing body to
32 participate in a meeting where the public has been excluded,
33 pursuant to subsection b. of this section, before the newly elected
34 member has taken their required oaths of office. The Division of
35 Local Government Services in the Department of Community
36 Affairs shall create an official statement for a newly elected
37 member of a municipality's governing body to sign acknowledging
38 that the newly elected member will abide by the municipality's
39 rules concerning official conduct regarding meetings where the
40 public has been excluded. An official statement signed by a newly
41 elected member of a municipality's governing body, pursuant to this
42 subsection, shall be filed with the municipal clerk.

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

44

45 2. This act shall take effect immediately.

STATEMENT

This bill enables a municipality to allow a newly elected member of the municipality's governing body to participate in a meeting where the public is excluded.

Under the bill, a municipality may, by resolution or ordinance, allow a newly elected member of the municipality's governing body to participate in a meeting where the public has been excluded before the newly elected member has taken their required oaths of office. The bill, thereby, provides the opportunity for a newly elected member of a municipal governing body to engage in important municipal issues in advance of the reorganization municipal meeting.

Additionally, the Division of Local Government Services in the Department of Community Affairs would create an official statement for a newly elected member of a municipality's governing body to sign acknowledging that the newly elected member will abide by the municipality's rules concerning official conduct regarding meetings where the public has been excluded. This official statement signed by the newly elected member would be filed with the municipal clerk.