

SENATE, No. 2611

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 25, 2020

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Singleton

SYNOPSIS

Requires BPU to establish and maintain electronic public records access service on its website; requires BPU to provide certain notice of its meetings and hearings and allow public comment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/30/2020)

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

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

7
8 1. (New section) As used in sections 1 and 2 of
9 P.L. , c. (C.) (pending before the Legislature as this bill):

10 “Access service” means the electronic public records access
11 service established, maintained, and updated, as appropriate, by the
12 board, through the board’s Internet website, pursuant to section 2 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 “Board” means the Board of Public Utilities or any successor
15 agency.

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

20
21 2. (New section) a. No later than 90 days after the effective
22 date of P.L. , c. (C.) (pending before the Legislature as this
23 bill), the board shall establish, maintain, and update, as appropriate,
24 an access service), through the board’s Internet website, that shall
25 allow users to obtain board proceeding documents and docket
26 information online. The access service shall allow users to submit
27 all filings and comments, in electronic or in printed form, to the
28 board and shall provide for the managing and facilitating of public
29 access to all filings, orders, notices, rulemakings, comments, or
30 other board proceeding documents. The access service shall be
31 subject to all of the following requirements:

32 (1) as soon as practicable, and not later than seven calendar days
33 after a document is filed with the board, the document shall be
34 publicly accessible on the access service, unless a longer period of
35 time is needed, as determined by the board, during an emergency;

36 (2) all documents on the access service shall be available to the
37 public and to parties before the board free of charge;

38 (3) any information within a document that is prohibited from
39 public disclosure by law or board order shall be redacted;

40 (4) all documents shall be text-searchable and machine-
41 readable;

42 (5) to the extent practicable, external websites shall be able to
43 link documents to the access service;

44 (6) the access service shall include digital audio and visual files
45 of board recordings when those files become available; and

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 (7) the access service shall provide a search function for public
2 use.

3 b. In developing the access service, the board:

4 (1) shall not impose, to the extent practicable, a disproportionate
5 impact on pro se litigants; and

6 (2) shall implement technology in order to improve security,
7 data accessibility, affordability, and performance, and to minimize
8 the burden on pro se litigants.

9
10 3. (New section) a. Notwithstanding the provision of written
11 advance notice of at least 48 hours, but otherwise in conformity
12 with the other provisions of the "Senator Byron M. Baer Open
13 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), the Board
14 of Public Utilities shall make available to the public on its
15 electronic public records access service, established pursuant to
16 section 2 of P.L. , c. (C.) (pending before the Legislature
17 as this bill), advance notice of every public meeting and hearing
18 conducted by the board seven calendar days prior to the day of the
19 meeting or hearing, unless a longer period of advance notice is
20 required by law, or a shorter period of advance notice is required, as
21 determined by the board, during an emergency. The provision of
22 this subsection shall apply to every public board meeting or hearing
23 regardless of the number of board members present at the meeting
24 or hearing.

25 b. For every public meeting or hearing conducted by the Board
26 of Public Utilities, as authorized by law, the board shall:

27 (1) provide, in the advance notice of that public meeting or
28 hearing, pursuant to subsection a. of this section, a description of
29 any action that may be taken by the board under each listed agenda
30 item in the notice; and

31 (2) set aside a portion of the meeting or hearing to allow
32 members of the public to comment on the subject matter of the
33 action described in the written advance notice.

34 c. As used in this subsection, "emergency" means a period of
35 time during which the Governor has declared the existence of a
36 public health emergency, pursuant to section 3 of P.L.2005, c.222
37 (C.26:13-3), or a state of emergency, pursuant to P.L.1942, c.251
38 (C.App.A:9-33 et seq.), within this State.

39

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

41 48:2-40. a. A majority vote of the board shall be necessary to
42 the issuance of an order.

43 b. (1) After the effective date of P.L.2011, c.63, the board
44 shall issue every order in written form. After the effective date of
45 P.L. , c. (C.) (pending before the Legislature as this bill), if
46 a written order, whether in draft or final form, is prepared for
47 consideration by the board prior to a meeting, the board shall make
48 available to the public on its electronic public records access

1 service, established pursuant to section 2 of P.L. , c. (C.)
2 (pending before the Legislature as this bill), the text of the written
3 order seven calendar days prior to the day of that meeting.

4 (2) If a matter is an emergency that affects public health and
5 safety, the board may issue a temporary order on the matter orally,
6 but shall within 14 days thereafter issue the order as a written order
7 that does not differ substantively from the oral order. Any board
8 order issued orally may be made effective immediately, but,
9 regardless of its effective date, if that order is not issued in written
10 form within 14 calendar days thereafter, or the written order is
11 substantively different from the oral order, the oral order shall be
12 void and of no effect as of the 15th calendar day after its issuance.

13 c. The board shall issue any written order by filing a copy
14 thereof with the board secretary. Every written order issued by the
15 board shall be:

16 (1) served upon the person or public utility affected thereby
17 within **【ten】** seven calendar days from its filing by personally
18 delivering or by mailing a certified copy thereof in a sealed package
19 with postage prepaid to the person affected or to an officer or agent
20 of the public utility upon whom a summons may be served; and

21 (2) posted **【upon the Internet website of the board】** on its
22 electronic public records access service, established pursuant to
23 section 2 of P.L. , c. (C.) (pending before the Legislature
24 as this bill), within seven calendar days from its filing.

25 d. All written orders of the board shall become effective upon
26 service thereof or upon such dates after the service thereof as may
27 be specified therein.

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

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

31
32 5. This act shall take effect on the 90th day after the date of
33 enactment and the Board of Public Utilities may take any
34 anticipatory administrative action in advance thereof as shall be
35 necessary for the timely implementation of P.L. , c. (C.)
36 (pending before the Legislature as this bill).

37 38 39 STATEMENT

40
41 This bill requires the Board of Public Utilities (board) to
42 establish, maintain, and update, as appropriate, an electronic public
43 records access service (access service) through the board's Internet
44 website that allows users to obtain board proceeding documents and
45 docket information online. The access service is to allow users to
46 submit all filings and comments, in electronic or in printed form, to
47 the board and provide for the managing and facilitating of public

1 access to all filings, orders, notices, rulemakings, comments, or
2 other board proceeding documents.

3 The access service is to be subject to the following requirements:

4 1) as soon as practicable, and not later than three business days
5 after a document is filed with the board, the document is to be
6 publicly accessible on the access service, unless a longer period of
7 time is needed, as determined by the board, during an “emergency,”
8 as that term is defined in the bill;

9 2) all documents on the access service are to be available to the
10 public and to parties before the board free of charge;

11 3) any information within a document that is prohibited from
12 public disclosure by law or board order is to be redacted;

13 4) all documents are to be text-searchable and machine-
14 readable;

15 5) to the extent practicable, external websites are to be able to
16 link documents to the access service;

17 6) the access service is to include digital audio and visual files
18 of board recordings when those files become available; and

19 7) the access service is to provide a search function for public
20 use.

21 In developing the access service, the board is not to impose, to
22 the extent practicable, a disproportionate impact on pro se litigants,
23 and the board is to implement appropriate technology in order to
24 improve security, data accessibility, affordability, and performance,
25 and to minimize the burden on pro se litigants.

26 Further, the bill requires the board to make available to the
27 public on its access service advance notice of every public meeting
28 and hearing conducted by the board seven calendar days prior to the
29 day of the meeting or hearing, unless a longer period of advance
30 notice is required by law, or a shorter period of advance notice is
31 required, as determined by the board, during an emergency. This
32 requirement is to apply to every public board meeting or hearing
33 regardless of the number of board members present at the meeting
34 or hearing. For these meetings and hearings, the bill requires the
35 board to provide, in the written advance notice of the meeting or
36 hearing, a description of any action that may be taken by the board
37 under each listed agenda item in the notice and to set aside a portion
38 of the meeting or hearing to allow members of the public to
39 comment on the subject matter of the action described in the written
40 advance notice. The bill requires that if a written order, whether in
41 draft or final form, is prepared for consideration by the board prior
42 to a meeting, the board is to make available to the public on its
43 access service the text of the written order seven calendar days prior
44 to the day of that meeting.