

SENATE BILL NO. 415—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 29, 2005

Referred to Committee on Government Affairs

SUMMARY—Authorizes public bodies to hold closed meetings for certain purposes relating to examinations. (BDR 19-100)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to meetings of public bodies; authorizing public bodies to hold closed meetings to prepare, revise, administer and grade examinations, and carry out certain other related activities; providing the circumstances under which minutes of meetings closed for such purposes become public records; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 241.030 is hereby amended to read as follows:
2 241.030 1. Except as otherwise provided in NRS 241.031
3 and 241.033, ~~nothing contained in this chapter prevents~~ a public
4 body ~~from holding~~ ***may hold*** a closed meeting to ~~consider~~ :
5 ***(a) Consider*** the character, alleged misconduct, professional
6 competence, or physical or mental health of a person.
7 ***(b) Prepare, revise, administer or grade examinations that are***
8 ***conducted by or on behalf of the public body.***
9 ***(c) Consider an appeal by a person of the results of an***
10 ***examination that was conducted by or on behalf of the public***
11 ***body, except that any action on the appeal must be taken in an***



1 *open meeting and the identity of the appellant must remain*
2 *confidential.*

3 2. A public body may close a meeting *pursuant to subsection*
4 *1* upon a motion which specifies the nature of the business to be
5 considered.

6 3. This chapter does not:

7 (a) Apply to judicial proceedings.

8 (b) Prevent the removal of any person who willfully disrupts a
9 meeting to the extent that its orderly conduct is made impractical.

10 (c) Prevent the exclusion of witnesses from a public or private
11 meeting during the examination of another witness.

12 (d) Require that any meeting be closed to the public.

13 (e) Permit a closed meeting for the discussion of the
14 appointment of any person to public office or as a member of a
15 public body.

16 4. The ~~exception~~ *exceptions* provided by this section, and
17 electronic communication, must not be used to circumvent the spirit
18 or letter of this chapter in order to discuss or act upon a matter over
19 which the public body has supervision, control, jurisdiction or
20 advisory powers.

21 **Sec. 2.** NRS 241.033 is hereby amended to read as follows

22 241.033 1. A public body shall not hold a meeting to
23 consider the character, alleged misconduct, professional
24 competence, or physical or mental health of any person *or to*
25 *consider an appeal by a person of the results of an examination*
26 *conducted by or on behalf of the public body* unless it has given
27 written notice to that person of the time and place of the meeting.
28 Except as otherwise provided in subsection 2, the written notice
29 must be:

30 (a) Delivered personally to that person at least 5 working days
31 before the meeting; or

32 (b) Sent by certified mail to the last known address of that
33 person at least 21 working days before the meeting.

34 ➔ A public body must receive proof of service of the notice
35 required by this subsection before such a meeting may be held.

36 2. The Nevada Athletic Commission is exempt from the
37 requirements of paragraphs (a) and (b) of subsection 1, but must
38 give written notice of the time and place of the meeting and must
39 receive proof of service of the notice before the meeting may be
40 held.

41 3. A public body shall provide a copy of any record of a closed
42 meeting prepared pursuant to NRS 241.035, upon the request of any
43 person ~~whose character, alleged misconduct, professional~~
44 ~~competence, or physical or mental health was considered at the~~



~~meeting.]~~ *who received written notice of the closed meeting pursuant to subsection 1.*

Sec. 3. NRS 241.035 is hereby amended to read as follows:

241.035 1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the *public* body who were present and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the *public* body if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

(e) Any other information which any member of the *public* body requests to be included or reflected in the minutes.

2. Minutes of public meetings are public records. Minutes or audiotape recordings of the meetings must be made available for inspection by the public within 30 working days after the adjournment of the meeting at which taken. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to :

(a) Paragraph (a) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was ~~[discussed]~~ considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.



3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Each public body may record on audiotape or any other means of sound reproduction each of its meetings, whether public or closed. If a meeting is so recorded:

(a) The record must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded.

(b) The record of a public meeting is a public record and must be made available for inspection by the public during the time the record is retained.

Any record made pursuant to this subsection must be made available to the Attorney General upon request.

5. If a public body elects to record a public meeting pursuant to the provisions of subsection 4, any portion of that meeting which is closed must also be recorded and must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any record made pursuant to this subsection must be made available to the Attorney General upon request.

Sec. 4. NRS 640A.090 is hereby amended to read as follows:
640A.090 1. The Board shall:

(a) Hold at least two meetings a year, the first of which must be held in January. Other meetings may be held at the call of the Chairman or upon the written request of two or more members.

(b) Elect a Chairman at the regular meeting in January of each year.

(c) Comply with the provisions of chapter 241 of NRS . ~~It~~ except that the Board may hold a closed meeting;

~~— (1) To discuss the contents of an examination for a license; or~~

~~— (2) At the request of an applicant who fails an examination given pursuant to this chapter, to discuss the reasons for that failure.]~~

2. A majority of the members of the Board constitutes a quorum.

Sec. 5. NRS 656.090 is hereby amended to read as follows:

656.090 All meetings of the Board ~~{shall}~~ **must** be open and public, except that the Board may hold executive sessions to ~~to~~

~~1. Deliberate} deliberate~~ on the decision to be reached upon any contested hearing.

~~{2. Prepare, administer or grade examinations.]~~



1 **Sec. 6.** This act becomes effective on July 1, 2005.



