

SENATE BILL NO. 465—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 29, 2005

Referred to Committee on Government Affairs

SUMMARY—Makes various changes regarding meetings of public bodies. (BDR 19-103)

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; defining the terms “consider” and “deliberate”; expanding the definition of the term “public body” to include certain nonprofit organizations; revising certain provisions relating to closed meetings of public bodies; 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 241.015 is hereby amended to read as follows:
2 241.015 As used in this chapter, unless the context otherwise
3 requires:
4 1. “Action” means:
5 (a) A decision made by a majority of the members present
6 during a meeting of a public body;
7 (b) A commitment or promise made by a majority of the
8 members present during a meeting of a public body;
9 (c) If a public body may have a member who is not an elected
10 official, an affirmative vote taken by a majority of the members
11 present during a meeting of the public body; or
12 (d) If all the members of a public body must be elected officials,
13 an affirmative vote taken by a majority of all the members of the
14 public body.



1 2. *“Consider” means the collective acquisition of facts. The*
2 *term does not include deliberation.*

3 3. *“Deliberate” means to examine, weigh or reflect upon the*
4 *reasons in favor of or against a decision on a matter over which*
5 *the public body has supervision, control, jurisdiction or advisory*
6 *power. The term includes, without limitation, the collective*
7 *discussion or exchange of opinions preliminary to an action.*

8 4. *“Meeting”:*

9 (a) Except as otherwise provided in paragraph (b), means:

10 (1) The gathering of members of a public body at which a
11 quorum is present to deliberate toward a decision or to take action
12 on any matter over which the public body has supervision, control,
13 jurisdiction or advisory power.

14 (2) Any series of gatherings of members of a public body at
15 which:

16 (I) Less than a quorum is present at any individual
17 gathering;

18 (II) The members of the public body attending one or
19 more of the gatherings collectively constitute a quorum; and

20 (III) The series of gatherings was held with the specific
21 intent to avoid the provisions of this chapter.

22 (b) Does not include a gathering or series of gatherings of
23 members of a public body, as described in paragraph (a), at which a
24 quorum is actually or collectively present:

25 (1) Which occurs at a social function if the members do not
26 deliberate toward a decision or take action on any matter over which
27 the public body has supervision, control, jurisdiction or advisory
28 power.

29 (2) To receive information from the attorney employed or
30 retained by the public body regarding potential or existing litigation
31 involving a matter over which the public body has supervision,
32 control, jurisdiction or advisory power and to deliberate toward a
33 decision on the matter, or both.

34 ~~13.1~~ 5. Except as otherwise provided in this subsection, “public
35 body” means any administrative, advisory, executive or legislative
36 body of the State or a local government which expends or disburses
37 or is supported in whole or in part by tax revenue or *grants of*
38 *money from the State or* which advises or makes recommendations
39 to any entity which expends or disburses or is supported in whole or
40 in part by tax revenue ~~14~~ *or grants of money from the State,*
41 including, but not limited to, any board, commission, committee,
42 subcommittee or other subsidiary thereof. ~~14 and~~ *The term* includes
43 an educational foundation as defined in subsection 3 of NRS
44 388.750, ~~14 and~~ a university foundation as defined in subsection 3 of
45 NRS 396.405 ~~14 and~~ *and an entity organized under or governed by*



1 *chapter 81 or 82 of NRS if the entity receives grants of money*
2 *from the State and performs an activity or service that,*
3 *historically, has been performed exclusively by a unit of federal,*
4 *state or local government for the benefit of the public or a segment*
5 *of the public.* “Public body” does not include the Legislature of the
6 State of Nevada.

7 ~~[4-]~~ 6. “Quorum” means a simple majority of the constituent
8 membership of a public body or another proportion established by
9 law.

10 **Sec. 2.** NRS 241.020 is hereby amended to read as follows:

11 241.020 1. Except as otherwise provided by specific statute,
12 all meetings of public bodies must be open and public, and all
13 persons must be permitted to attend any meeting of these public
14 bodies. Public officers and employees responsible for these
15 meetings shall make reasonable efforts to assist and accommodate
16 physically handicapped persons desiring to attend.

17 2. Except in an emergency, written notice of all meetings must
18 be given at least 3 working days before the meeting. ~~[The]~~ *Except*
19 *as otherwise provided in NRS 241.033, the* notice must include:

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

21 (b) A list of the locations where the notice has been posted.

22 (c) An agenda consisting of:

23 (1) A clear and complete statement of the topics scheduled to
24 be considered during the meeting.

25 (2) A list describing the items on which action may be taken
26 and clearly denoting that action may be taken on those items.

27 (3) A period devoted to comments by the general public, if
28 any, and discussion of those comments. No action may be taken
29 upon a matter raised under this item of the agenda until the matter
30 itself has been specifically included on an agenda as an item upon
31 which action may be taken pursuant to subparagraph (2).

32 3. Minimum public notice is:

33 (a) Posting a copy of the notice at the principal office of the
34 public body or, if there is no principal office, at the building in
35 which the meeting is to be held, and at not less than three other
36 separate, prominent places within the jurisdiction of the public body
37 not later than 9 a.m. of the third working day before the meeting;
38 and

39 (b) Providing a copy of the notice to any person who has
40 requested notice of the meetings of the public body. A request for
41 notice lapses 6 months after it is made. The public body shall inform
42 the requester of this fact by enclosure with, notation upon or text
43 included within the first notice sent. The notice must be:



(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law.

➤ If the requester has agreed to receive the information and material set forth in this subsection by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

6. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.



7. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 3. NRS 241.031 is hereby amended to read as follows:

241.031 A public body shall not hold a closed meeting to consider ~~the character, alleged misconduct, professional competence, or physical or mental health of an elected member of a public body.~~ *any matter that directly relates to a person who is an elected public officer, whether or not the matter relates to the public office of the person.*

Sec. 4. NRS 241.033 is hereby amended to read as follows:

241.033 1. A public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person unless it has given written notice to that person of the time and place of the meeting. Except as otherwise provided in subsection 2, the written notice must be:

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

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

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

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

3. If a public body holds a closed meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, that person may attend the closed meeting if the public body has previously taken action in a public meeting to allow his attendance at the closed meeting. Such an action to allow the attendance of a person at a closed meeting is not required to be included on the agenda for the public meeting at which the action is taken.

4. If a public body gives notice to more than one person pursuant to this section regarding the same closed meeting, the public body shall:

(a) At its sole discretion:

(1) Allow all of the persons to whom notice is given to attend the closed meeting; or



1 (2) *Allow none of the persons to whom notice is given to*
2 *attend the closed meeting.*

3 (b) *If reasonably practicable within the limits of available time,*
4 *ensure that the notice includes a statement of the determination of*
5 *the public body pursuant to paragraph (a).*

6 5. *If a public body elects pursuant to subsection 4 to allow all*
7 *of the persons to whom notice is given to attend the closed*
8 *meeting, the failure of one or more of those persons to appear at*
9 *the closed meeting does not preclude those noticed and present*
10 *from attending the closed meeting.*

11 6. A public body shall provide a copy of any record of a closed
12 meeting prepared pursuant to NRS 241.035, upon the request of any
13 person whose character, alleged misconduct, professional
14 competence, or physical or mental health was considered at the
15 meeting.

16 7. *Notice provided pursuant to this section does not satisfy the*
17 *notice requirements of NRS 241.034.*

18 **Sec. 5.** NRS 241.034 is hereby amended to read as follows:

19 241.034 1. A public body shall not ~~consider~~ *deliberate* at a
20 meeting *regarding* whether to:

21 (a) Take administrative action against a person; or

22 (b) Acquire real property owned by a person by the exercise of
23 the power of eminent domain,

24 ↪ unless the public body has given written notice to that person of
25 the time and place of the meeting.

26 2. The written notice required pursuant to subsection 1 must
27 be:

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

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

32 ↪ A public body must receive proof of service of the written notice
33 provided to a person pursuant to this section before the public body
34 may ~~consider~~ *deliberate regarding* a matter set forth in subsection
35 1 relating to that person at a meeting.

36 3. The written notice provided in this section is in addition to
37 the notice of the meeting provided pursuant to NRS 241.020.

38 4. For the purposes of this section, real property shall be
39 deemed to be owned only by the natural person or entity listed in the
40 records of the county in which the real property is located to whom
41 or which tax bills concerning the real property are sent.

42 **Sec. 6.** This act becomes effective upon passage and approval.



