
SENATE BILL NO. 6—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED JANUARY 26, 2005

Referred to Committee on Government Affairs

SUMMARY—Grants subpoena power to Attorney General to enforce Open Meeting Law. (BDR 19-101)

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; granting subpoena power to the Attorney General for purposes of enforcing the Open Meeting Law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the Attorney General to investigate and prosecute
2 violations of the Open Meeting Law and authorizes the Attorney General to sue to
3 have actions taken by public bodies declared void or for an injunction against a
4 public body or person to require compliance with or prevent violations of the Open
5 Meeting Law. (NRS 241.037, 241.040) Under existing law, the Attorney General
6 has the power to issue subpoenas in various investigations and proceedings,
7 including grand jury proceedings, criminal prosecutions and in investigations and
8 proceedings relating to deceptive trade practices and telephone solicitations. (NRS
9 193.340, 228.120, 459.3866, 459.575, 459.844, 598.0963, 599B.215, 616D.610,
10 645B.620)

11 This bill grants the Attorney General the authority, by subpoena, to require the
12 attendance and testimony of witnesses and the production of documents and other
13 evidence as necessary to enforce the Open Meeting Law. This bill also authorizes
14 the Attorney General to petition a court of competent jurisdiction to require
15 compliance with such a subpoena.

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



Section 1. NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. The Attorney General shall investigate and prosecute any violation of this chapter.

5. The Attorney General may, by subpoena, require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which he deems necessary to enforce the provisions of this chapter. If any person to whom a subpoena has been directed pursuant to this subsection refuses to attend, testify or produce any evidence specified in the subpoena, the Attorney General may present a petition, to a court of competent jurisdiction where the person to whom the subpoena was directed is subject to service of process, setting forth that:

(a) Notice has been given of the time and place at which the person was required to attend, testify or produce evidence;

(b) A subpoena has been mailed to or personally served on the witness or custodian of the evidence in sufficient time to enable him to comply with its provisions; and

(c) The person has failed or refused to attend, answer questions or produce evidence specified in the subpoena, and asking that the court issue an order compelling the person to attend and testify or produce the evidence specified in the subpoena. When a court receives such a petition, it shall order the person to whom the subpoena was directed to appear at a time and place fixed by the court in its order, which must be not more than 10 days after the date of the order, and show cause why he should not be held in contempt. A certified copy of the order must be mailed to or personally served on the person to whom the subpoena was directed. If it appears to the court that the subpoena was properly issued and that the person's failure or refusal to appear, answer questions or produce evidence was without sufficient reason, the court shall order the person to appear at a time and place fixed by the court and to testify or produce the specified evidence. If the person fails to comply with the order of the court, he may be punished as for a contempt of court.



1 **Sec. 2.** This act becomes effective upon passage and approval.

