

SENATE BILL NO. 32—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED DECEMBER 5, 2008

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to the Open Meeting Law.
(BDR 19-459)

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 the Open Meeting Law; authorizing certain public bodies to hold closed meetings to consider the character, alleged misconduct or professional competence of certain persons; requiring such a public body to publicize certain information within 30 days after holding such a closed meeting; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides in relevant part that a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of a person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, such as a president of a facility within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and a city manager. (NRS 241.031)

This bill authorizes certain local public bodies, not including a county school district, to hold a closed meeting to consider the character, alleged misconduct or professional competence of a person who is a public officer appointed by such a public body or who serves at the pleasure of such a public body, unless the person requests that the meeting be open to the public. This bill also provides that, within 30 days after holding such a closed meeting, the public body must make public a summary of its findings and a description of any bonus or change in salary, benefits or other compensation awarded to the person. However, this bill retains the prohibition on the holding of closed meetings to consider the character, alleged misconduct or professional competence of: (1) public officers who serve at the state level; and (2) public officers who serve in the system of education within this State at the state or local level.



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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 this section and
3 NRS 241.031 and 241.033, a public body may hold a closed
4 meeting to:

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 body,
11 except that any action on the appeal must be taken in an open
12 meeting and the identity of the appellant must remain confidential.

13 2. A person whose character, alleged misconduct, professional
14 competence, or physical or mental health will be considered by a
15 public body during a meeting may waive the closure of the meeting
16 and request that the meeting or relevant portion thereof be open to
17 the public. A request described in this subsection:

18 (a) May be made at any time before or during the meeting; and

19 (b) Must be honored by the public body unless the consideration
20 of the character, alleged misconduct, professional competence, or
21 physical or mental health of the requester involves the appearance
22 before the public body of another person who does not desire that
23 the meeting or relevant portion thereof be open to the public.

24 3. A public body may close a meeting pursuant to subsection 1
25 upon a motion which specifies:

26 (a) The nature of the business to be considered; and

27 (b) The statutory authority pursuant to which the public body is
28 authorized to close the meeting.

29 4. *If a public body holds a closed meeting to consider the*
30 *character, alleged misconduct or professional competence of a*
31 *person who is an appointed public officer or who serves at the*
32 *pleasure of the public body, within 30 days after the meeting, the*
33 *public body must make public a:*

34 (a) *Summary of its findings that relate to the character,*
35 *alleged misconduct or professional competence of the person; and*

36 (b) *Description of any bonus or change in salary, benefits or*
37 *other compensation awarded to the person by the public body as a*
38 *result of its findings.*

39 5. This chapter does not:

40 (a) Apply to judicial proceedings.



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

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

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

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

~~15.1~~ 6. The exceptions provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 2. NRS 241.031 is hereby amended to read as follows:

241.031 1. Except as otherwise provided in subsection 2, a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of:

(a) An elected member of a public body; or

(b) A person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university, state college or community college within the Nevada System of Higher Education ~~or~~ or a superintendent of a county school district ~~. *or a county manager and a city manager.*~~

2. The prohibition set forth in subsection 1 does not apply if ~~the~~:

(a) The person is a public officer who is appointed by or serves at the pleasure of a local governmental public body, including, without limitation, a city manager, county manager, officer, trustee or manager of a general improvement district, or other chief administrator of a municipality, but not including a public officer who is appointed by or serves at the pleasure of a county school district; or

(b) The consideration of the character, alleged misconduct or professional competence of the person does not pertain to his role as an elected member of a public body or an appointed public officer or other officer described in paragraph (b) of subsection 1, as applicable.

Sec. 3. This act becomes effective upon passage and approval.

