

ASSEMBLY BILL NO. 239—ASSEMBLYMEN BOBZIEN, KIRKPATRICK,
BENITEZ-THOMPSON, SMITH, PIERCE; ATKINSON,
BUSTAMANTE ADAMS, CONKLIN, FLORES, MASTROLUCA
AND OCEGUERA

MARCH 7, 2011

Referred to Committee on Government Affairs

SUMMARY—Requires public bodies to post on their websites, if any, certain material and records related to meetings of the public body. (BDR 19-527)

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; requiring under certain circumstances that a public body post on its website on the Internet, if any, the supporting material provided to the members of the public body for an item on the agenda of a meeting of the public body; requiring under certain circumstances that a public body post on its website on the Internet, if any, the minutes or audiotape recordings and any videotape recordings of the meetings of the public body; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill adds to the existing requirement that a public body make available to certain requesters and to the public the supporting material provided to the members of the public body for an item on the agenda of a meeting of the public body. (NRS 241.020) In addition to this existing requirement, **section 1** requires, with certain exceptions, that the public body post such supporting material on its website, if any, not later than the earliest date and time that the public body provides the supporting material to a requester or to the public.

Section 2 of this bill adds to the existing requirement that a public body make available to the public the minutes or audiotape recordings of its meetings. (NRS 241.035) In addition to the existing requirement, **section 2** requires, with certain exceptions, that the public body post the minutes or audiotape recordings of its meetings and any videotape recordings of those meetings on its website, if any, not later than the date and time that the public body otherwise makes the minutes or



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14 audiotape recordings available to the public. If posted on the website, the minutes
15 or audiotape recordings and any videotape recordings must remain available for 1
16 year.

17 **Sections 1 and 2** of this bill also specify that if technical problems prevent the
18 required postings to the public body's website, such a failure to post does not
19 constitute a violation of the laws regarding public meetings and public records.

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

1 **Section 1.** NRS 241.020 is hereby amended to read as follows:
2 241.020 1. Except as otherwise provided by specific statute,
3 all meetings of public bodies must be open and public, and all
4 persons must be permitted to attend any meeting of these public
5 bodies. A meeting that is closed pursuant to a specific statute may
6 only be closed to the extent specified in the statute allowing the
7 meeting to be closed. All other portions of the meeting must be open
8 and public, and the public body must comply with all other
9 provisions of this chapter to the extent not specifically precluded by
10 the specific statute. Public officers and employees responsible for
11 these meetings shall make reasonable efforts to assist and
12 accommodate persons with physical disabilities desiring to attend.
13 2. Except in an emergency, written notice of all meetings must
14 be given at least 3 working days before the meeting. The notice
15 must include:
16 (a) The time, place and location of the meeting.
17 (b) A list of the locations where the notice has been posted.
18 (c) An agenda consisting of:
19 (1) A clear and complete statement of the topics scheduled to
20 be considered during the meeting.
21 (2) A list describing the items on which action may be taken
22 and clearly denoting that action may be taken on those items.
23 (3) A period devoted to comments by the general public, if
24 any, and discussion of those comments. No action may be taken
25 upon a matter raised under this item of the agenda until the matter
26 itself has been specifically included on an agenda as an item upon
27 which action may be taken pursuant to subparagraph (2).
28 (4) If any portion of the meeting will be closed to consider
29 the character, alleged misconduct or professional competence of a
30 person, the name of the person whose character, alleged misconduct
31 or professional competence will be considered.
32 (5) If, during any portion of the meeting, the public body will
33 consider whether to take administrative action against a person, the
34 name of the person against whom administrative action may be
35 taken.



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3. Minimum public notice is:

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

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text 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) Subject to the provisions of subsection 6, 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 which relates to proprietary information;

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

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.



1 ↪ The public body shall make at least one copy of the documents
2 described in paragraphs (a), (b) and (c) available to the public at the
3 meeting to which the documents pertain. As used in this subsection,
4 “proprietary information” has the meaning ascribed to it in
5 NRS 332.025.

6 6. A copy of supporting material required to be provided upon
7 request pursuant to paragraph (c) of subsection 5 must be:

8 (a) If the supporting material is provided to the members of the
9 public body before the meeting, made available to the requester at
10 the time the material is provided to the members of the public body;
11 or

12 (b) If the supporting material is provided to the members of the
13 public body at the meeting, made available at the meeting to the
14 requester at the same time the material is provided to the members
15 of the public body.

16 ↪ If the requester has agreed to receive the information and material
17 set forth in subsection 5 by electronic mail, the public body shall, if
18 feasible, provide the information and material by electronic mail.

19 7. *If a public body maintains a website on the Internet or its*
20 *successor, the public body must post on its website the supporting*
21 *material required to be provided upon request pursuant to*
22 *paragraph (c) of subsection 5 unless the public body is unable to*
23 *do so because of technical problems relating to the operation or*
24 *maintenance of its website. The public body shall post the*
25 *supporting material on its website pursuant to this subsection not*
26 *later than the earlier of:*

27 (a) *The date and time the public body first provides the*
28 *supporting material to a person who requests the supporting*
29 *material pursuant to subsection 5; or*

30 (b) *The date and time the public body first makes the*
31 *supporting material available to the public.*

32 ↪ *The posting of the supporting material pursuant to this*
33 *subsection is supplemental to and is not a substitute for providing*
34 *the supporting material in accordance with the requirements of*
35 *subsections 5 and 6. The inability of a public body to post the*
36 *supporting material pursuant to this subsection as a result of*
37 *technical problems with its website shall not be deemed to be a*
38 *violation of the provisions of this chapter.*

39 8. A public body may provide the public notice, information
40 and material required by this section by electronic mail. If a public
41 body makes such notice, information and material available by
42 electronic mail, the public body shall inquire of a person who
43 requests the notice, information or material if the person will accept
44 receipt by electronic mail. The inability of a public body, as a result
45 of technical problems with its electronic mail system, to provide a



1 public notice, information or material required by this section to a
2 person who has agreed to receive such notice, information or
3 material by electronic mail shall not be deemed to be a violation of
4 the provisions of this chapter.

5 ~~18.1~~ 9. As used in this section, "emergency" means an
6 unforeseen circumstance which requires immediate action and
7 includes, but is not limited to:

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

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

11 **Sec. 2.** NRS 241.035 is hereby amended to read as follows:

12 241.035 1. Each public body shall keep written minutes of
13 each of its meetings, including:

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

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

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

20 (d) The substance of remarks made by any member of the
21 general public who addresses the public body if the member of the
22 general public requests that the minutes reflect those remarks or, if
23 the member of the general public has prepared written remarks, a
24 copy of the prepared remarks if the member of the general public
25 submits a copy for inclusion.

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

28 2. Minutes of public meetings are public records. Minutes or
29 audiotape recordings of the meetings must be made available for
30 inspection by the public within 30 working days after the
31 adjournment of the meeting at which taken. The minutes shall be
32 deemed to have permanent value and must be retained by the public
33 body for at least 5 years. Thereafter, the minutes may be transferred
34 for archival preservation in accordance with NRS 239.080 to
35 239.125, inclusive. Minutes of meetings closed pursuant to:

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

42 (b) Paragraph (b) of subsection 1 of NRS 241.030 become
43 public records when the public body determines that the matters
44 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. *If a public body maintains a website on the Internet or its successor, the public body must post on its website:*

(a) *The minutes or audiotape recordings of its meetings made available to the public pursuant to subsection 2; and*

(b) *Videotape recordings, if any, maintained by the public body of the meetings for which the minutes or audiotape recordings are made available to the public pursuant to subsection 2,*

↪ unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website or, with regard to the posting of audiotape or videotape recordings, the posting on the website is not technically feasible for the public body. The public body shall post the minutes or audiotape recordings and any videotape recordings on its website pursuant to this subsection not later than the date and time the public body makes the minutes or audiotape recordings available to the public pursuant to subsection 2 and shall maintain the minutes or audiotape recordings and any videotape recordings on its website for not less than 1 year. The posting of the minutes or audiotape recordings and any videotape recordings pursuant to this subsection is supplemental to and is not a substitute for providing the minutes or audiotape recordings in accordance with the requirements of subsections 2, 5 and 6. The inability of a public body to post the minutes or audiotape recordings or any videotape recordings pursuant to this subsection as a result of technical problems with its website or the technical feasibility of posting audiotape or videotape recordings shall not be deemed to be a violation of the provisions of this chapter.

4. 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.}~~ 5. Except as otherwise provided in subsection ~~{6.}~~ 7, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public



body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

~~15-1~~ **6.** Except as otherwise provided in subsection ~~16-1~~ **7**, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

~~16-1~~ **7.** If a public body makes a good faith effort to comply with the provisions of subsections ~~14-and~~ **5 and 6** but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

Sec. 3. This act becomes effective on July 1, 2011.

