

Amendment No. 356

Assembly Amendment to Assembly Bill No. 389

(BDR 19-226)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold underlining*** is newly added transitory language.

JRS/WLK



Date: 4/18/2011

A.B. No. 389—Revises provisions regarding the Open Meeting Law.
(BDR 19-226)



ASSEMBLY BILL NO. 389—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding the Open Meeting Law.
(BDR 19-226)

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

~

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; requiring a public body to ~~allot an equal amount of time for certain testimony~~ ***make a reasonable effort to allow the expression of certain opinions*** at a public meeting; making the provisions of chapter 241 of NRS applicable to a nonprofit corporation that has the power of eminent domain; ~~requiring meetings conducted by common interest communities to comply with the Open Meeting Law;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a public body to ~~allot an equal amount of time for testimony in favor of and in opposition to an~~ ***make a reasonable effort to allow the expression of competing opinions concerning any*** agenda item at a public meeting. ~~[Section 1 also requires a public body to allot an equal amount of time for the rebuttal of such testimony.]~~

Section 2 of this bill requires a nonprofit corporation that has the power of eminent domain to comply with the provisions of chapter 241 of NRS.

~~[Section 3 of this bill requires that meetings of common interest communities must comply with the Open Meeting Law. The Commission for Common Interest Communities and Condominium Hotels is responsible for investigating and enforcing violations of the Open Meeting Law by common interest communities.]~~

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[To the extent that persons have requested to testify in favor of and in opposition to an]~~ ***A public body shall make a reasonable effort to allow the expression of competing opinions concerning any item on the agenda for a meeting of [a] the public body. [the public body shall allot an equal amount of time at the meeting for:***

~~1. Testimony in favor of and in opposition to the item; and~~

~~2. **Rebuttal to such testimony.**~~~~As used in this section, "testimony" includes, without limitation, any presentation, explanation or oral response.~~

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

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

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

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

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

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

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

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

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

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

3. Except as otherwise provided in this subsection, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405; ~~and~~

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201 ~~and~~; **and**

(c) A nonprofit corporation organized or existing under the provisions of chapter 82 of NRS that has the authority to exercise the power of eminent domain pursuant to subsection 2 of NRS 37.0095.

↪ "Public body" does not include the Legislature of the State of Nevada.

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 3. ~~(Deleted by amendment.)~~

Sec. 4. ~~(Deleted by amendment.)~~

Sec. 5. ~~(Deleted by amendment.)~~

Sec. 6. ~~(Deleted by amendment.)~~

Sec. 7. ~~(Deleted by amendment.)~~

Sec. 8. ~~(Deleted by amendment.)~~

Sec. 9. ~~(Deleted by amendment.)~~

Sec. 10. ~~(Deleted by amendment.)~~

Sec. 11. ~~(Deleted by amendment.)~~

†

TEXT OF REPEALED SECTION

~~116.3109 Quorum.~~

~~1. Except as otherwise provided in this section and NRS 116.31034, and except when the governing documents provide otherwise, a quorum is present throughout any meeting of the association if the number of members of the association who are present in person or by proxy at the beginning of the meeting equals or exceeds 20 percent of the total number of voting members of the association.~~

~~2. If the governing documents of an association contain a quorum requirement for a meeting of the association that is greater than the 20 percent required by subsection 1 and, after proper notice has been given for a meeting, the members of the association who are present in person or by proxy at the meeting are unable to hold the meeting because a quorum is not present at the beginning of the meeting, the members who are present in person at the meeting may adjourn the meeting to a time that is not less than 48 hours or more than 30 days from the date of the meeting. At the subsequent meeting:~~

~~(a) A quorum shall be deemed to be present if the number of members of the association who are present in person or by proxy at the beginning of the subsequent meeting equals or exceeds 20 percent of the total number of voting members of the association; and~~

~~(b) If such a quorum is deemed to be present but the actual number of members who are present in person or by proxy at the beginning of the subsequent meeting is less than the number of members who are required for a quorum under the governing documents, the members who are present in person or by proxy at the subsequent meeting may take action only on those matters that were included as items on the agenda of the original meeting.~~

~~→ The provisions of this subsection do not change the actual number of votes that are required under the governing documents for taking action on any particular matter.~~

~~3. Unless the governing documents specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.~~