

ASSEMBLY BILL NO. 118—ASSEMBLYMEN HICKEY, KIRNER,  
PAUL ANDERSON; FIORE, GRADY, HAMBRICK AND HARDY

FEBRUARY 14, 2013

JOINT SPONSORS: SENATORS BROWER AND HUTCHISON

Referred to Committee on Legislative Operations and Elections

SUMMARY—Establishes the Legislative Open Meeting Law.  
(BDR 17-49)

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 Legislature; establishing the Legislative Open Meeting Law; providing that meetings of legislative committees must be open and public, during any period in which the Legislature is not in session, providing that any member of the general public may attend such meetings; establishing the minimum requirements for public notice of such meetings; specifying the contents of the public notice for such meetings; providing for comment by the general public on any item on which action may be taken by a committee; requiring that written minutes and an audio recording be kept of each meeting of a committee; authorizing a member of the general public to record such a meeting under certain circumstances; providing that any action taken in violation of the Legislative Open Meeting Law is void; authorizing certain persons to bring suit in district court for alleged violations of the Legislative Open Meeting Law; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law establishes the Open Meeting Law, which requires, except in
- 2 certain limited situations, that all meetings of public bodies be open and public. It
- 3 further requires that all persons be allowed to attend any meeting of these public



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bodies. (NRS 241.020) The Legislature is not subject to the requirements of the Open Meeting Law. (NRS 241.015)

This bill establishes the Legislative Open Meeting Law, which is modeled on the Open Meeting Law and which requires, except in certain limited circumstances, that all meetings of legislative committees during any period in which the Legislature is not in session be open and public. **Section 9** of this bill requires that all persons be allowed to attend any public meeting of a committee. **Section 9** establishes the minimum requirements for and contents of public notice of meetings of committees. **Section 9** additionally provides for comment by the general public on any item on which action may be taken by a committee.

**Section 10** of this bill requires that written minutes be kept of each meeting of a committee and additionally requires that an audio recording be made of each meeting. **Section 10** provides that the written minutes and audio recordings of such meetings are public records and must be available to the public for inspection. **Section 10** also provides that a member of the general public may record a meeting if the recording does not interfere with the meeting.

**Section 11** of this bill provides that an action taken by a committee in violation of the Legislative Open Meeting Law is void, and **section 12** of this bill provides that a person denied a right conferred by the Legislative Open Meeting Law may bring suit in district court to have an action taken by the committee declared void, to require compliance with or prevent violations of the Legislative Open Meeting Law or to determine the applicability of the Law to discussions or decisions of a committee. **Section 12** authorizes a court to order the payment of attorney's fees and court costs to a successful plaintiff in a suit brought based on a violation of the Legislative Open Meeting Law.

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

**Section 1.** Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

**Sec. 2.** *The provisions of sections 2 to 12, inclusive, of this act may be cited as the Legislative Open Meeting Law.*

**Sec. 3.** *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 4.** "Action" means:

*1. A decision made by a majority of the members present during a meeting of a committee;*

*2. A commitment or promise made by a majority of the members present during a meeting of a committee; or*

*3. An affirmative vote taken by a majority of all the members of a committee.*

**Sec. 5.** "Committee" has the meaning ascribed to it in NRS 218E.010.

**Sec. 6.** "Meeting":

*1. Except as otherwise provided in subsection 2, means:*



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

5 (b) Any series of gatherings of members of a committee where:

6 (1) Less than a quorum is present at any individual  
7 gathering;

8 (2) The members of the committee attending one or more of  
9 the gatherings collectively constitute a quorum; and

10 (3) The series of gatherings was held with the specific  
11 intent to avoid the provisions of sections 2 to 12, inclusive, of this  
12 act.

13 2. Does not include a gathering or series of gatherings of  
14 members of a committee, as described in subsection 1, at which a  
15 quorum is actually or collectively present:

16 (a) Which occurs at a social function if the members do not  
17 deliberate toward a decision or take action on any matter over  
18 which the committee has supervision, control, jurisdiction or  
19 advisory power; or

20 (b) To receive information from the Director, the Legislative  
21 Counsel or any attorney employed or retained by the Legislature  
22 regarding potential or existing litigation involving a matter over  
23 which the committee has supervision, control, jurisdiction or  
24 advisory power and to deliberate toward a decision on the matter,  
25 or both.

26 Sec. 7. "Quorum" means a simple majority of the constituent  
27 membership of a committee or another proportion established by  
28 law.

29 Sec. 8. The provisions of sections 2 to 12, inclusive, of this  
30 act apply only to a meeting of a committee during any period in  
31 which the Legislature is not in session.

32 Sec. 9. 1. Except as otherwise provided by specific statute,  
33 all meetings of a committee must be open and public, and all  
34 persons must be permitted to attend any meeting of the committee.  
35 A meeting that is closed pursuant to a specific statute may only be  
36 closed to the extent specified in the statute allowing the meeting to  
37 be closed. All other portions of the meeting must be open and  
38 public, and the committee must comply with all other provisions of  
39 sections 2 to 12, inclusive, of this act to the extent not specifically  
40 precluded by the specific statute. The Director shall make  
41 reasonable efforts to assist and accommodate persons with  
42 physical disabilities desiring to attend any meeting of a committee.

43 2. Except in an emergency, written notice of all meetings  
44 must be given at least 3 working days before the meeting. The  
45 notice must include:



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

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

3 (c) *An agenda consisting of:*

4 (1) *A clear and complete statement of the topics scheduled*  
5 *to be considered during the meeting.*

6 (2) *A list describing the items on which action may be taken*  
7 *and clearly denoting that action may be taken on those items by*  
8 *placing the term "for possible action" next to the appropriate item.*

9 (3) *Periods devoted to comments by the general public, if*  
10 *any, and discussion of those comments. Comments by the general*  
11 *public must be taken:*

12 (I) *At the beginning of the meeting before any items on*  
13 *which action may be taken are heard by the committee and again*  
14 *before the adjournment of the meeting; or*

15 (II) *After each item on the agenda on which action may*  
16 *be taken is discussed by the committee, but before the committee*  
17 *takes action on the item.*

18 ➡ *The provisions of this subparagraph do not prohibit a*  
19 *committee from taking comments by the general public in addition*  
20 *to what is required pursuant to sub-subparagraph (I) or (II).*  
21 *Regardless of whether a committee takes comments from the*  
22 *general public pursuant to sub-subparagraph (I) or (II), the*  
23 *committee shall allow the general public to comment on any*  
24 *matter that is not specifically included on the agenda as an action*  
25 *item at some time before adjournment of the meeting. No action*  
26 *may be taken upon a matter raised during a period devoted to*  
27 *comments by the general public until the matter itself has been*  
28 *specifically included on an agenda as an item upon which action*  
29 *may be taken pursuant to subparagraph (2).*

30 (4) *Notification that:*

31 (I) *Items on the agenda may be taken out of order;*

32 (II) *The committee may combine two or more agenda*  
33 *items for consideration; and*

34 (III) *The committee may remove an item from the*  
35 *agenda or delay discussion relating to an item on the agenda at*  
36 *any time.*

37 (5) *Any restrictions on comments by the general public.*  
38 *Any such restrictions must be reasonable and may restrict the*  
39 *time, place and manner of the comments, but may not restrict*  
40 *comments based upon viewpoint.*

41 3. *Minimum public notice is:*

42 (a) *Posting a copy of the notice at the Legislative Building in*  
43 *Carson City, the Grant Sawyer Building in Las Vegas, the*  
44 *building in which the meeting is to be held, and at not fewer than*



1 *three other separate, prominent places within the State not later*  
2 *than 9 a.m. of the third working day before the meeting; and*

3 *(b) Providing a copy of the notice to any person who has*  
4 *requested notice of the meetings of the committee. A request for*  
5 *notice lapses 6 months after it is made. The Director shall inform*  
6 *the requester of this fact by enclosure with, notation upon or text*  
7 *included within the first notice sent. The notice must be:*

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

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

15 *4. The Director shall post notice of each meeting of a*  
16 *committee on the Legislature's website unless he or she is unable*  
17 *to do so because of technical problems relating to the operation or*  
18 *maintenance of the website. Notice posted pursuant to this*  
19 *subsection is supplemental to and is not a substitute for the*  
20 *minimum public notice required pursuant to subsection 3. The*  
21 *inability of the Director to post notice of a meeting pursuant to this*  
22 *subsection as a result of technical problems with the Legislature's*  
23 *website shall be deemed not to be a violation of the provisions of*  
24 *sections 2 to 12, inclusive, of this act.*

25 *5. Upon any request, the Director shall provide, at no charge,*  
26 *at least one copy of:*

27 *(a) An agenda for a public meeting of a committee;*

28 *(b) A proposed law or regulation which will be discussed at the*  
29 *public meeting; and*

30 *(c) Subject to the provisions of subsection 6, any other*  
31 *supporting material provided to the members of the committee for*  
32 *an item on the agenda, except materials:*

33 *(1) Submitted to the committee pursuant to a nondisclosure*  
34 *or confidentiality agreement which relates to proprietary*  
35 *information;*

36 *(2) Pertaining to the closed portion of a meeting of the*  
37 *committee; or*

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

41 *↪ The Director shall make at least one copy of the documents*  
42 *described in this subsection available to the public at the meeting*  
43 *of the committee to which the documents pertain.*

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



1 (a) If the supporting material is provided to the members of the  
2 committee before the meeting, made available to the requester at  
3 the time the material is provided to the members of the committee;  
4 or

5 (b) If the supporting material is provided to the members of the  
6 committee at the meeting, made available at the meeting to the  
7 requester at the same time the material is provided to the members  
8 of the committee.

9 ➔ If the requester has agreed to receive the information and  
10 material set forth in subsection 5 by electronic mail, the Director  
11 shall, if feasible, provide the information and material by  
12 electronic mail.

13 7. The Director may, at the direction of the chair of a  
14 committee, provide the public notice, information and material  
15 required by this section by electronic mail. If the chair of a  
16 committee makes such notice, information and material available  
17 by electronic mail, the Director shall ask a person who requests  
18 the notice, information or material if the person will accept receipt  
19 by electronic mail. The inability of the Director, as a result of  
20 technical problems with an electronic mail system, to provide a  
21 public notice or information or material required by this section to  
22 a person who has agreed to receive such notice, information or  
23 material by electronic mail shall be deemed not to be a violation of  
24 the provisions of sections 2 to 12, inclusive, of this act.

25 8. As used in this section:

26 (a) "Emergency" means an unforeseen circumstance which  
27 requires immediate action and includes, but is not limited to:

28 (1) Disasters caused by fire, flood, earthquake or other  
29 natural causes; or

30 (2) Any impairment of the health and safety of the public.

31 (b) "Proprietary information" has the meaning ascribed to it  
32 in NRS 332.025.

33 **Sec. 10. 1. Each committee shall keep written minutes of**  
34 **each of its meetings, including:**

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

36 (b) Those members of the committee who were present and  
37 those who were absent.

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

41 (d) The substance of remarks made by any member of the  
42 general public who addresses the committee if the member of the  
43 general public requests that the minutes reflect those remarks or,  
44 if the member of the general public has prepared written remarks,



1 a copy of the prepared remarks if the member of the general  
2 public submits a copy for inclusion.

3 (e) Any other information which any member of the committee  
4 requests to be included or reflected in the minutes.

5 2. Except for the minutes of a closed meeting, minutes of  
6 public meetings are public records. Minutes or audiotape  
7 recordings of the meetings must be made available for inspection  
8 by the public within 30 working days after the adjournment of the  
9 meeting at which taken. The minutes shall be deemed to have  
10 permanent value and must be retained by the Director for at least  
11 5 years. Thereafter, the minutes may be transferred for archival  
12 preservation in accordance with NRS 239.080 to 239.125,  
13 inclusive.

14 3. All or part of any meeting of a committee may be recorded  
15 on audiotape or any other means of sound or video reproduction  
16 by a member of the general public if it is a public meeting so long  
17 as this in no way interferes with the conduct of the meeting.

18 4. Except as otherwise provided in subsection 5, a committee  
19 shall, for each of its meetings, record the meeting on audiotape or  
20 another means of sound reproduction or cause the meeting to be  
21 transcribed. If a committee makes an audio recording of a meeting  
22 or causes a meeting to be transcribed pursuant to this subsection,  
23 the audio recording or transcript:

24 (a) Must be retained by the Director for at least 1 year after the  
25 adjournment of the meeting at which it was recorded or  
26 transcribed; and

27 (b) Except for the audio recording or transcript of any closed  
28 meeting, is a public record and must be made available for  
29 inspection by the public during the time the recording or transcript  
30 is retained.

31 5. If a committee makes a good faith effort to comply with the  
32 provisions of subsection 4 but is prevented from doing so because  
33 of factors beyond the reasonable control of the committee,  
34 including, without limitation, a power outage, a mechanical  
35 failure or other unforeseen event, such failure does not constitute  
36 a violation of the provisions of sections 2 to 12, inclusive, of this  
37 act.

38 **Sec. 11.** The action of any committee taken in violation of  
39 any provision of sections 2 to 12, inclusive, of this act is void.

40 **Sec. 12.** 1. Any person denied a right conferred by sections  
41 2 to 12, inclusive, of this act may sue in the district court of the  
42 district in which the committee ordinarily holds its meetings or in  
43 which the plaintiff resides. A suit may seek to have an action taken  
44 by the committee declared void, to require compliance with or  
45 prevent violations of sections 2 to 12, inclusive, of this act or to



1 *determine the applicability of sections 2 to 12, inclusive, of this act*  
2 *to discussions or decisions of the committee. The court may order*  
3 *payment of reasonable attorney's fees and court costs to a*  
4 *successful plaintiff in a suit brought under this subsection.*

5 *2. Any suit brought against a committee pursuant to*  
6 *subsection 1 to require compliance with the provisions of sections*  
7 *2 to 12, inclusive, of this act must be commenced within 120 days*  
8 *after the action objected to was taken by the committee in violation*  
9 *of sections 2 to 12, inclusive, of this act. Any such suit brought to*  
10 *have an action declared void must be commenced within 60 days*  
11 *after the action objected to was taken.*

12 **Sec. 13.** This act becomes effective on July 1, 2013.

