

Amendment No. 109

Assembly Amendment to Assembly Bill No. 65 (BDR 19-402)

Proposed by: Assembly Committee on Government Affairs

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

JWP/MSN



Date: 4/9/2013

A.B. No. 65—Revises various provisions relating to open meetings. (BDR 19-402)



ASSEMBLY BILL NO. 65—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to open meetings.
(BDR 19-402)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 public meetings; exempting certain ~~committees and subcommittees of a public body~~ **entities, proceedings and meetings** from compliance with the Open Meeting Law in certain circumstances; prohibiting a member of a public body from designating a person to attend a meeting in the member's place without certain authority; revising provisions relating to the prosecution of an alleged violation of the Open Meeting Law; revising provisions governing the provision of supporting material for meetings to the public; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law requires that meetings of public bodies be open to the public, with limited exceptions set forth specifically in statute. (NRS 241.020) **Section 2** of this bill ~~compiles a list of provisions relating to the applicability of and~~ **provides certain** exceptions and exemptions to **the Open Meeting Law and provides that any other provision of law which: (1) exempts a meeting, hearing or proceeding from the requirements of the Open Meeting Law; or (2) otherwise authorizes or requires a closed meeting, hearing or proceeding prevails over the general provisions of** the Open Meeting Law. ~~currently in existing law.~~ **Sections 6 and 8** of this bill make conforming changes. ~~Section 2 also adds an exemption to the Open Meeting Law for meetings of a committee or subcommittee of a public body when the committee or subcommittee is engaged solely in activities relating to the acquisition of facts for the public body.~~

Section 3 of this bill prohibits a member of a public body from designating a person to attend a meeting of the public body in the place of the member unless members of the public body are expressly authorized to do so by the constitutional provision, statute, ordinance, resolution or other legal authority that created the public body. **Section 3** also requires that any such designation be made in writing ~~or~~ **or made on the record at a meeting of the public body.** deems any person so designated to be a member of the public body for purposes of determining a quorum at the meeting and entitles such a person to exercise the same powers as the regular members of the public body at the meeting.

Any action taken by a public body in violation of the Open Meeting Law is void. (NRS 241.036) Under existing law, the Attorney General is required to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.039) Existing law authorizes the Attorney General or a member of the public to sue a public body: (1) within 60 days after an alleged violation to have an action by the public body declared void; or (2) within 120 days after an alleged violation to require the public body to comply with the Open Meeting Law. (NRS 241.037) **Section 4** of this bill provides that if a public body takes certain corrective action within 30 days after an alleged violation, the Attorney General may decide not to commence prosecution of the alleged violation if the Attorney General determines that foregoing prosecution would be in the best interests of the public. **Section 4** also extends by 30 days the deadline by which lawsuits to enforce the Open Meeting Law may be filed by the Attorney General in the context of corrective action. **Section 4** further provides that any action taken by a public body to correct an alleged violation of the Open Meeting Law is effective prospectively. ~~only~~

With certain exceptions, a public body is required to comply with the Open Meeting Law when a quorum of its members is present to deliberate toward a decision or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power. (NRS 241.015) **Section 6** of this bill defines "deliberate" for purposes of this requirement to mean **collectively** examining, weighing and reflecting on the reasons for or against an action and includes **the** collective discussion ~~and the collective acquisition of the~~ **or** exchange of facts preliminary to the ultimate decision. **Section 6** also clarifies that a quorum of members may be present in person or by means of electronic communication.

Under the Open Meeting Law, a public body is required, upon request and at no charge, to provide a copy of an agenda for the meeting, any proposed ordinance or regulation to be discussed at the meeting, and other supporting material, with certain exceptions, provided to members of the public body for an item on the agenda. (NRS 241.020) **Section 7** of this bill requires that a public body include on the notice for a meeting: (1) the name and contact information for the person designated by the public body from whom a member of the public may request the supporting material for a meeting; and (2) a list of the locations where the supporting material is available to the public. **Section 7** also requires the governing body of a city or county whose population is ~~140,000~~ **45,000** or more (currently Clark, Douglas, Elko, Lyon, ~~Nye~~ and Washoe Counties and the cities of Carson City, Henderson, Las Vegas, North Las Vegas, Reno and Sparks) to post the supporting material to its website not later than the time at which the material is provided to the members of the ~~public~~ **governing body** ~~or, if the supporting material is provided to the governing body at a meeting, not later than 24 hours after the meeting.~~ **Section 7** also authorizes such a public body to provide the supporting material via a link to the posting on its website to a person who has requested to receive the material by electronic mail if the person so agrees.

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 the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.*

2. *The following are exempt from the requirements of this chapter:*

(a) *The Legislature of the State of Nevada.*

(b) *Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.*

(c) *Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.*

~~1 (d) Meetings of a committee or subcommittee of a public body when engaged
2 solely in activities relating to the acquisition of facts on a matter within the
3 supervision, control, jurisdiction or advisory power of the public body, but not
4 when deliberating or taking action, including, without limitation, making
5 recommendations, on the matter.~~

~~6 3. The special provisions of NRS 91.270, subsection 2 of NRS 239C.140,
7 subsection 15 of NRS 281.140, NRS 281.170, subsection 8 of NRS 281.550,
8 subsection 7 of NRS 284.3620, NRS 286.150, subsection 4 of NRS 287.0415, NRS
9 288.220, subsection 10 of NRS 289.387, subsection 13 of NRS 295.121, NRS
10 360.247, subsection 4 of NRS 385.555, subsection 2 of NRS 386.585, subsection 1
11 of NRS 392.147, subsection 3 of NRS 392.467, NRS 392.656, subsection 2 of
12 NRS 392.105, NRS 394.1690, subsection 7 of NRS 396.3295, subsection 2 of
13 NRS 463.110, NRS 622.320, 630.311, subsection 1 of NRS 630.336, subsection 3
14 of NRS 639.050, NRS 642.518, 642.557, 696B.550, subsection 11 of NRS
15 686B.170, NRS 703.196 and 706.1725 prevail.~~

3. Any provision of law which:

(a) Provides that any meeting, hearing or other proceeding is not subject to
the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or
proceeding.

prevails over the general provisions of this chapter.

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

Sec. 3. 1. A member of a public body may not designate a person to attend a meeting of the public body in the place of the member unless such designation is expressly authorized by the legal authority pursuant to which the public body was created. Any such designation must be made in writing ~~††~~ or made on the record at a meeting of the public body.

2. A person designated pursuant to subsection 1:

(a) Shall be deemed to be a member of the public body for the purposes of determining a quorum at the meeting; and

(b) Is entitled to exercise the same powers as the regular members of the public body at the meeting.

Sec. 4. 1. ~~†††~~ Except as otherwise provided in subsection 4, if a public body, after providing the notice described in subsection 2, takes action in conformity with this chapter to correct an alleged violation of this chapter within 30 days after the alleged violation, the Attorney General may decide not to commence prosecution of the alleged violation if the Attorney General determines foregoing prosecution would be in the best interests of the public.

2. ~~†††~~ Except as otherwise provided in subsection 4, before taking any action to correct an alleged violation of this chapter, the public body must include an item on the agenda posted for the meeting at which the public body intends to take the corrective action ~~clearly denoting that the possible action to be taken by the public body is the correction of an alleged violation off~~ in conformity with this chapter. ~~††~~ by the public body and include a brief description of the alleged violation. The inclusion of an item on the agenda for a meeting of a public body pursuant to this subsection is not an admission of wrongdoing for the purposes of civil action, criminal prosecution or injunctive relief.

3. For purposes of subsection 1, the period of limitations set forth in subsection 3 of NRS 241.037 by which the Attorney General may bring suit is tolled for 30 days.

4. The provisions of this section do not prohibit a public body from taking action in conformity with this chapter to correct an alleged violation of the provisions of this chapter before the adjournment of the meeting at which the alleged violation occurs.

5. Any action taken by a public body to correct an alleged violation of this chapter by the public body is effective prospectively. ~~Only. Any attempt to make the action apply retroactively is void.~~

Sec. 5. NRS 241.010 is hereby amended to read as follows:

241.010 1. In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

2. If any member of a public body is present by means of ~~teleconference~~ ~~telecommunication~~ ~~teleconference~~ or videoconference at any meeting of the public body, the public body shall ensure that all the members of the public body and the members of the public who are present at the meeting can hear or observe and participate in the meeting.

Sec. 6. 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, whether in person or by means of electronic communication, during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, 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, whether in person or by means of electronic communication, 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. "Deliberate" means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion ~~and the collective acquisition~~ or exchange of facts preliminary to the ultimate decision.

3. "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, whether in person or by means of electronic communication, 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, whether in person or by means of electronic communication, 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 ~~+~~, whether in person or by means of electronic communication:

(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.

~~3-4~~ 4. Except as otherwise provided in ~~this subsection,~~ *section 2 of this act*, “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons 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, if the administrative, advisory, executive or legislative body is created by:

(1) The Constitution of this State;

(2) Any statute of this State;

(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;

(4) The Nevada Administrative Code;

(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;

(6) An executive order issued by the Governor; or

(7) A resolution or an action by the governing body of a political subdivision of this State;

(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

~~1-“Public body” does not include the Legislature of the State of Nevada.~~

~~4-5~~ 5. “Quorum” means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 7. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and

employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

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

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

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

(c) *The name and contact information for the person designated by the public body from whom a member of the public may request the supporting material for the meeting described in subsection 5 and a list of the locations where the supporting material is available to the public.*

(d) An agenda consisting of:

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

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term “for possible action” next to the appropriate item or, if the item is placed on the agenda pursuant to section 4 of this act, by placing the term “for possible corrective action” next to the appropriate item.

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

(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

➤ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to subparagraph (I) or (II), the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

(6) Notification that:

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

(II) The public body may combine two or more agenda items for consideration; and

(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

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

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 ~~or 7, as applicable~~, 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.

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

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

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

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

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

7. ~~The governing body of a county or city whose population is 40,000~~
45,000 or more shall post the supporting material described in paragraph (c) of subsection 5 to its website not later than the time the material is provided to the members of the governing body or, if the supporting material is provided to the members of the governing body at a meeting, not later than 24

hours after the conclusion of the meeting. Such posting is supplemental to the right of the public to request the supporting material pursuant to subsection 5. The inability of the ~~selected public~~ governing body, as a result of technical problems with its website, to post supporting material pursuant to this subsection shall not be deemed to be a violation of the provisions of this chapter.

8. A public body may provide the public notice, information ~~and~~ or supporting material required by this section by electronic mail. ~~##~~ *Except as otherwise provided in this subsection, if* a public body makes such notice, information ~~and~~ or supporting material available by electronic mail, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept receipt by electronic mail. *If a public body is required to post the public notice, information or supporting material on its website pursuant to this section, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept by electronic mail a link to the posting on the website when the documents are made available.* The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or supporting material *or a link to a website* required by this section to a person who has agreed to receive such notice, information ~~or~~, supporting material *or link* by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~##~~ 9. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.

Sec. 8. NRS 241.030 is hereby amended to read as follows:

241.030 1. Except as otherwise provided in this section and NRS 241.031 and 241.033, a public body may hold a closed meeting to:

(a) Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

(b) Prepare, revise, administer or grade examinations that are conducted by or on behalf of the public body.

(c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

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

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

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

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

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

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

4. ~~Except as otherwise provided in this subsection, meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter. The~~

~~provisions of this subsection do not apply to meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke parole of a prisoner or to establish or modify the terms of the parole of a prisoner.~~

~~5.1~~ This chapter does not:

~~(a) Apply to judicial proceedings.~~

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

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

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

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

~~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. 9. NRS 241.035 is hereby amended to read as follows:

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

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

(b) Those members of the public body who were present *, whether in person or by means of electronic communication*, and those who were absent.

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

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

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

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

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

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters 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

1 the examination. That person is entitled to a copy of the minutes upon request
2 whether or not they become public records.

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

7 4. Except as otherwise provided in subsection 6, a public body shall, for each
8 of its meetings, whether public or closed, record the meeting on audiotape or
9 another means of sound reproduction or cause the meeting to be transcribed by a
10 court reporter who is certified pursuant to chapter 656 of NRS. If a public body
11 makes an audio recording of a meeting or causes a meeting to be transcribed
12 pursuant to this subsection, the audio recording or transcript:

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

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

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

19 5. Except as otherwise provided in subsection 6, any portion of a public
20 meeting which is closed must also be recorded or transcribed and the recording or
21 transcript must be retained and made available for inspection pursuant to the
22 provisions of subsection 2 relating to records of closed meetings. Any recording or
23 transcript made pursuant to this subsection must be made available to the Attorney
24 General upon request.

25 6. If a public body makes a good faith effort to comply with the provisions of
26 subsections 4 and 5 but is prevented from doing so because of factors beyond the
27 public body's reasonable control, including, without limitation, a power outage, a
28 mechanical failure or other unforeseen event, such failure does not constitute a
29 violation of the provisions of this chapter.

30 **Sec. 10.** NRS 241.037 is hereby amended to read as follows:

31 241.037 1. The Attorney General may sue in any court of competent
32 jurisdiction to have an action taken by a public body declared void or for an
33 injunction against any public body or person to require compliance with or prevent
34 violations of the provisions of this chapter. The injunction:

35 (a) May be issued without proof of actual damage or other irreparable harm
36 sustained by any person.

37 (b) Does not relieve any person from criminal prosecution for the same
38 violation.

39 2. Any person denied a right conferred by this chapter may sue in the district
40 court of the district in which the public body ordinarily holds its meetings or in
41 which the plaintiff resides. A suit may seek to have an action taken by the public
42 body declared void, to require compliance with or prevent violations of this chapter
43 or to determine the applicability of this chapter to discussions or decisions of the
44 public body. The court may order payment of reasonable attorney's fees and court
45 costs to a successful plaintiff in a suit brought under this subsection.

46 3. ***Except as otherwise provided in section 4 of this act:***

47 (a) Any suit brought against a public body pursuant to subsection 1 or 2 to
48 require compliance with the provisions of this chapter must be commenced within
49 120 days after the action objected to was taken by that public body in violation of
50 this chapter.

51 (b) Any such suit brought to have an action declared void must be commenced
52 within 60 days after the action objected to was taken.

1 **Sec. 11.** NRS 241.039 is hereby amended to read as follows:

2 241.039 1. ~~The~~ *Except as otherwise provided in section 4 of this act, the*
3 Attorney General shall investigate and prosecute any violation of this chapter.

4 2. In any investigation conducted pursuant to subsection 1, the Attorney
5 General may issue subpoenas for the production of any relevant documents, records
6 or materials.

7 3. A person who willfully fails or refuses to comply with a subpoena issued
8 pursuant to this section is guilty of a misdemeanor.

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