

Amendment No. 108

Senate Amendment to Senate Bill No. 70	(BDR 19-155)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EGO/BJE



Date: 4/19/2015

S.B. No. 70—Revises provisions governing meetings of public bodies.
(BDR 19-155)



SENATE BILL NO. 70—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing meetings of public bodies.
(BDR 19-155)

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 bodies; making various changes relating to meetings of public bodies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law only applies to meetings of a quorum of the members of certain public bodies. (NRS 241.016) "Quorum" is defined in existing law as "a simple majority of the constituent membership of a public body or another proportion established by law." **Section 2** of this bill deletes the extraneous word "constituent" from this definition, thereby clarifying that a quorum consists of a simple majority of the members of the public body unless a different number is prescribed in law.

The Open Meeting Law specifies a certain number of working days by which a public body is mandated to comply with certain requirements with respect to its meetings, such as providing notice of its meetings and making available minutes or audio recordings of its meetings. (NRS 241.020, 241.033-241.035) **Section 2** defines "working day" for purposes of these requirements as every day of the week except Saturday, Sunday and legal holidays prescribed in existing law. Therefore, if an agency has a 4-day workweek and is closed on Fridays, for example, Friday would nevertheless count as a working day for that agency for purposes of the requirements of the Open Meeting Law unless a particular Friday is a legal holiday.

Under existing law, any provision of law which provides that a meeting, hearing or other proceeding is not subject to the Open Meeting Law or otherwise authorizes or requires a closed meeting, hearing or proceeding prevails over the general provisions of the Open Meeting Law. (NRS 241.016) **Section 3** of this bill lists examples of other such provisions of law that prevail over the general provisions of the Open Meeting Law.

Under existing law, if a public body will consider whether to take administrative action against a person during a public meeting, the agenda for the meeting is required to include the name of the person against whom the public body may take administrative action. (NRS 241.020) Section 4 of this bill broadens this requirement for agendas to apply to other types of administrative action that a public body may take that are not adverse to a person, such as, for example, appointment of the person to a position.

The Open Meeting Law sets forth the minimum public notice required for meetings of public bodies subject to the Open Meeting Law. (NRS 241.020) **Section 4** of this bill requires such a public body to ~~certify~~ document in writing ~~it~~ on a form prescribed by the Attorney

~~General.~~ its compliance with the ~~(requirements)~~ **requirement** for minimum public notice **to post a copy of the public notice at required locations** for each of its meetings.

Under the Open Meeting Law, a member of a public body is prohibited from designating a person to attend a meeting of the public body in the place of the member unless the designation is expressly authorized by the legal authority pursuant to which the public body was created. (NRS 241.025) **Section 5** of this bill extends this prohibition to the public body itself, thereby prohibiting a public body from designating a person to attend a meeting of the public body in the place of a member of the public body without specific legal authority.

Under the Open Meeting Law, a public body is required to keep written minutes of each of its meetings. (NRS 241.035) **Section 6** of this bill requires a public body to approve the minutes of a meeting of the public body **within 45 days after the meeting or** at the next meeting of the public body, **whichever occurs later**, unless good cause ~~(for delay)~~ is shown.

With certain exceptions, the Attorney General is required under existing law to investigate and prosecute violations of the Open Meeting Law. (NRS 241.039) **Section 7** of this bill authorizes the filing of a complaint alleging a violation of the Open Meeting Law with the Office of the Attorney General. **Section 7** also makes ~~(such a complaint a public record but makes any other record, document or~~ **all documents and other** information ~~(obtained by the Attorney General during)~~ **compiled as a result of** an investigation of a violation of the Open Meeting Law confidential until the investigation is closed, ~~(except: (1) the complaint; (2) findings of fact and conclusions of law made by the Attorney General relating to the complaint; and (3) any document or information compiled as a result of the investigation that may be requested for inspection or copying from a governmental entity other than the Office of the Attorney General.~~

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

Section 1. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, **241.039**, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153,

1 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872,
2 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560,
3 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220,
4 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720,
5 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
6 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407,
7 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363,
8 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160,
9 584.655, 598.0964, 598A.110, 603.070, 603A.210, 604A.710, 612.265, 616B.012,
10 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353,
11 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
12 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
13 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085,
14 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220,
15 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090,
16 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
17 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130,
18 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
19 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105,
20 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430,
21 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159,
22 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
23 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
24 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420,
25 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725,
26 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011
27 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise
28 declared by law to be confidential, all public books and public records of a
29 governmental entity must be open at all times during office hours to inspection by
30 any person, and may be fully copied or an abstract or memorandum may be
31 prepared from those public books and public records. Any such copies, abstracts or
32 memoranda may be used to supply the general public with copies, abstracts or
33 memoranda of the records or may be used in any other way to the advantage of the
34 governmental entity or of the general public. This section does not supersede or in
35 any manner affect the federal laws governing copyrights or enlarge, diminish or
36 affect in any other manner the rights of a person in any written book or record
37 which is copyrighted pursuant to federal law.

38 2. A governmental entity may not reject a book or record which is
39 copyrighted solely because it is copyrighted.

40 3. A governmental entity that has legal custody or control of a public book or
41 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
42 receive a copy of a public book or record on the basis that the requested public
43 book or record contains information that is confidential if the governmental entity
44 can redact, delete, conceal or separate the confidential information from the
45 information included in the public book or record that is not otherwise confidential.

46 4. A person may request a copy of a public record in any medium in which
47 the public record is readily available. An officer, employee or agent of a
48 governmental entity who has legal custody or control of a public record:

49 (a) Shall not refuse to provide a copy of that public record in a readily
50 available medium because the officer, employee or agent has already prepared or
51 would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

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, 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 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.

4. Except as otherwise provided in NRS 241.016, "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.

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

6. "Working day" means every day of the week except Saturday, Sunday and any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 3. NRS 241.016 is hereby amended to read as follows:

241.016 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.

3. Any provision of law , **including, without limitation, NRS 91.270, 239C.140, 281A.350, 281A.440, 281A.550, 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247, 385.555, 386.585, 392.147, 392.467, 392.656, 392A.105, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725,** 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. 4. 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 ~~4~~ 6 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 NRS 241.0365, 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 sub-subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to sub-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~~ **regarding** a person, the name of ~~the~~ **that** 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;

(b) Posting the notice on the official website of the State pursuant to NRS 232.2175 not later than 9 a.m. of the third working day before the meeting is to be held, unless the public body is unable to do so because of technical problems relating to the operation or maintenance of the official website of the State; and

(c) 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.

~~4-4~~ 4. For each of its meetings, a public body shall ~~certify~~ document in writing ~~on a form prescribed by the Attorney General~~ that the public body complied with the minimum public notice required by ~~this~~ paragraph (a) of subsection ~~for the meeting~~.

~~4-1~~ 3. The documentation must be prepared by every person who posted a copy of the public notice and include, without limitation:

(a) The date and time when the person posted the copy of the public notice;

(b) The address of the location where the person posted the copy of the public notice; and

(c) The name, title and signature of the person who posted the copy of the notice.

5. 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.

~~5-1~~ 6. 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 ~~4-6 or 7,~~ 7 or 8, 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.

~~16.4~~ 7. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection ~~15.4~~ 6 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 at the meeting 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 ~~15.4~~ 6 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

~~17.4~~ 8. The governing body of a county or city whose population is 45,000 or more shall post the supporting material described in paragraph (c) of subsection ~~15.4~~ 6 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 ~~15.4~~ 6. The inability of the 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.

~~18.4~~ 9. A public body may provide the public notice, information 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 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, supporting material or link by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~19.4~~ 10. 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. 5. NRS 241.025 is hereby amended to read as follows:

241.025 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}~~ **Unless**

1 *the* designation is expressly authorized by the legal authority pursuant to which
2 ~~the~~ a public body was created ~~+~~ :

3 (a) *The public body may not designate a person to attend a meeting of the*
4 *public body in the place of a member of the public body; and*

5 (b) *A member of the public body may not designate a person to attend a*
6 *meeting of the public body in his or her place.*

7 2. Any ~~such~~ authorized designation must be made in writing or made on the
8 record at a meeting of the public body.

9 ~~2+~~ 3. A person *who is* designated ~~pursuant to subsection 1+~~ *to attend a*
10 *meeting of a public body in the place of a member of the public body:*

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

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

15 **Sec. 6.** NRS 241.035 is hereby amended to read as follows:

16 241.035 1. Each public body shall keep written minutes of each of its
17 meetings, including:

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

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

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

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

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

31 ~~+~~ *Unless good cause is shown, a public body shall approve the minutes of a*
32 *meeting within 45 days after the meeting or at the next meeting of the public body*
33 *+, unless good cause for delay is shown+, whichever occurs later.*

34 2. Minutes of public meetings are public records. Minutes or ~~audiotape~~
35 ~~recordings~~ *an audio recording of the meetings* *a meeting made in accordance*
36 *with subsection 4* must be made available for inspection by the public ~~+, and at~~
37 *within 30 working days after adjournment of the meeting.* A copy of the minutes
38 or audio ~~recordings~~ *recording* must be made available to a member of the public
39 upon request at no charge. ~~+, within 30 working days after the adjournment of the~~
40 ~~meeting at which taken.~~ The minutes shall be deemed to have permanent value and
41 must be retained by the public body for at least 5 years. Thereafter, the minutes
42 may be transferred for archival preservation in accordance with NRS 239.080 to
43 239.125, inclusive. Minutes of meetings closed pursuant to:

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

49 (b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when
50 the public body determines that the matters discussed no longer require
51 confidentiality.

52 (c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when
53 the public body determines that the matters considered no longer require

1 confidentiality and the person who appealed the results of the examination has
2 consented to their disclosure, except that the public body shall remove from the
3 minutes any references to the real name of the person who appealed the results of
4 the examination. That person is entitled to a copy of the minutes upon request
5 whether or not they become public records.

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

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

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

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

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

22 5. The requirement set forth in subsection 2 that a public body make available
23 a copy of the minutes or audio recording of a meeting to a member of the public
24 upon request at no charge does not:

25 (a) Prohibit a court reporter who is certified pursuant to chapter 656 of NRS
26 from charging a fee to the public body for any services relating to the transcription
27 of a meeting; or

28 (b) Require a court reporter who transcribes a meeting to provide a copy of any
29 transcript, minutes or audio recording of the meeting prepared by the court reporter
30 to a member of the public at no charge.

31 6. Except as otherwise provided in subsection 7, any portion of a public
32 meeting which is closed must also be recorded or transcribed and the recording or
33 transcript must be retained and made available for inspection pursuant to the
34 provisions of subsection 2 relating to records of closed meetings. Any recording or
35 transcript made pursuant to this subsection must be made available to the Attorney
36 General upon request.

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

42 **Sec. 7.** NRS 241.039 is hereby amended to read as follows:

43 241.039 1. *A complaint that alleges a violation of this chapter may be filed*
44 *with the Office of the Attorney General.*

45 2. Except as otherwise provided in NRS 241.0365, the Attorney General shall
46 investigate and prosecute any violation of this chapter.

47 ~~2.3. Except as otherwise provided in this subsection 6 and NRS~~
48 ~~239.0115, any record, document or other information obtained by the Attorney~~
49 ~~General during~~ *all documents and other information compiled as a result of an*
50 *investigation conducted pursuant to subsection 2* ~~is~~ *are confidential until the*
51 *investigation is closed.* ~~A complaint filed pursuant to subsection 1 is a public~~
52 ~~record.~~

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

4 ~~B+~~ 5. A person who willfully fails or refuses to comply with a subpoena
5 issued pursuant to this section is guilty of a misdemeanor.

6 6. The following are public records:

7 (a) A complaint filed pursuant to subsection 1.

8 (b) Every finding of fact or conclusion of law made by the Attorney General
9 relating to a complaint filed pursuant to subsection 1.

10 (c) Any document or information compiled as a result of an investigation
11 conducted pursuant to subsection 2 that may be requested pursuant to NRS
12 239.0107 from a governmental entity other than the Office of the Attorney
13 General.

14 Sec. 8. This act becomes effective upon passage and approval.