

SENATE BILL NO. 183—SENATORS SEEVERS GANSERT, HARDY,
HAMMOND; GOICOECHEA AND SETTELMAYER

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to governmental administration. (BDR 19-537)

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 governmental administration; revising certain requirements for public notice of meetings of public bodies; requiring the minutes of meetings of public bodies include a detailed summary of certain matters; revising requirements related to the small business impact statements prepared by state agencies for administrative regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law sets forth the minimum public notice required of a meeting of a public body, which must include an agenda. Existing law also specifies certain information that must be included on an agenda. (NRS 244.020) **Section 1** of this bill requires that if the agenda is revised in any way after it is posted, provided or delivered, the agenda must clearly indicate that the agenda has been revised, what such revisions are and the date that the agenda was revised.

The Open Meeting Law requires the governing body of a county or city whose population is 45,000 or more to post certain supporting material for a meeting to the governing body's website. (NRS 244.020) **Section 1:** (1) requires any proposed ordinance or regulation which will be discussed at the meeting to also be posted on the website; and (2) makes these requirements of posting proposed ordinances, regulations and other supporting materials applicable to all public bodies that maintain a website on the Internet. These requirements do not apply to the governing body of a county or city whose population is less than 45,000 (currently Churchill, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, Storey and White Pine Counties and the cities of Boulder City, Caliente, Carlin, Elko, Ely, Fallon, Fernley, Lovelock, Wells, West Wendover, Winnemucca and Yerington).



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Under the Open Meeting Law, a public body is required to keep written minutes of its meetings, which includes the substance of all matters proposed, discussed or decided. (NRS 241.035) **Section 2** of this bill instead requires the public body to include in the written minutes a detailed summary of all matters proposed, discussed or decided.

Existing law requires a state agency subject to the Nevada Administrative Procedure Act, chapter 233B of NRS, to determine whether a proposed regulation is likely to impose a direct and significant economic burden on small business or directly restrict the formation, operation or expansion of a small business. If so, the agency must engage in certain actions, including, consulting with owners and officers of small businesses who may be impacted. (NRS 233B.0608) **Section 3** of this bill requires an agency that sends a survey or other questionnaire to owners and officers of small businesses to give owners and officers not less than 10 business days to submit a response.

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

Section 1. 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 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



1 placing the term “for possible corrective action” next to the
2 appropriate item.

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

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

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

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

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

28 (5) If, during any portion of the meeting, the public body will
29 consider whether to take administrative action regarding a person,
30 the name of that person.

31 (6) Notification that:

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

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

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

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

42 (8) *If the agenda is revised in any way after it is posted,*
43 *provided or delivered, a clear indication:*



(I) That the agenda has been revised;

(II) Of the revisions made to the agenda such that all revisions are easily identifiable; and

(III) The date on which the agenda was revised.

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. For each of its meetings, a public body shall document in writing that the public body complied with the minimum public notice required by paragraph (a) of subsection 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 *the* notice of each of its meetings on its website *required pursuant to subsection 2*, unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. 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.

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 7 or 8, as applicable, any other supporting material *referred to on the agenda or* 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.

7. Unless it must be made available at an earlier time pursuant to NRS 288.153, a copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 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 6 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

8. ~~Unless~~ *Except as otherwise provided in this subsection or unless* the supporting material must be posted at an earlier time pursuant to NRS 288.153, *a public body that maintains a website on the Internet, other than* the governing body of a county or city



1 whose population is *less than* 45,000 , ~~{or more}~~ shall post *a*
2 *proposed ordinance or regulation described in paragraph (b) of*
3 *subsection 6 and* the supporting material described in paragraph (c)
4 of subsection 6 to its website not later than the time the *proposed*
5 *ordinance or regulation or other* material is provided to the
6 members of the ~~{governing}~~ *public* body or, if the *proposed*
7 *ordinance or regulation or other* supporting material is provided to
8 the members of the ~~{governing}~~ *public* body at a meeting, not later
9 than 24 hours after the conclusion of the meeting. Such posting is
10 supplemental to the right of the public to request the *proposed*
11 *ordinance or regulation or other* supporting material pursuant to
12 subsection 6. The inability of the ~~{governing}~~ *public* body, as a
13 result of technical problems with its website, to post supporting
14 material pursuant to this subsection shall not be deemed to be a
15 violation of the provisions of this chapter.

16 9. A public body may provide the public notice, information or
17 supporting material required by this section by electronic mail.
18 Except as otherwise provided in this subsection, if a public body
19 makes such notice, information or supporting material available by
20 electronic mail, the public body shall inquire of a person who
21 requests the notice, information or supporting material if the person
22 will accept receipt by electronic mail. If a public body is required to
23 post the public notice, information or supporting material on its
24 website pursuant to this section, the public body shall inquire of a
25 person who requests the notice, information or supporting material
26 if the person will accept by electronic mail a link to the posting on
27 the website when the documents are made available. The inability of
28 a public body, as a result of technical problems with its electronic
29 mail system, to provide a public notice, information or supporting
30 material or a link to a website required by this section to a person
31 who has agreed to receive such notice, information, supporting
32 material or link by electronic mail shall not be deemed to be a
33 violation of the provisions of this chapter.

34 10. As used in this section, "emergency" means an unforeseen
35 circumstance which requires immediate action and includes, but is
36 not limited to:

37 (a) Disasters caused by fire, flood, earthquake or other natural
38 causes; or

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

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

41 241.035 1. Each public body shall keep written minutes of
42 each of its meetings, including:



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

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

5 (c) ~~{The substance}~~ *A detailed summary* of all matters proposed,
6 discussed or decided and, at the request of any member, a record of
7 each member's vote on any matter decided by vote.

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

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

16 ➡ Unless good cause is shown, a public body shall approve the
17 minutes of a meeting within 45 days after the meeting or at the next
18 meeting of the public body, whichever occurs later.

19 2. Minutes of public meetings are public records. Minutes or an
20 audio recording of a meeting made in accordance with subsection 4
21 must be made available for inspection by the public within 30
22 working days after adjournment of the meeting. A copy of the
23 minutes or audio recording must be made available to a member of
24 the public upon request at no charge. The minutes shall be deemed
25 to have permanent value and must be retained by the public body for
26 at least 5 years. Thereafter, the minutes may be transferred for
27 archival preservation in accordance with NRS 239.080 to 239.125,
28 inclusive. Minutes of meetings closed pursuant to:

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

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

38 (c) Paragraph (c) of subsection 1 of NRS 241.030 become
39 public records when the public body determines that the matters
40 considered no longer require confidentiality and the person who
41 appealed the results of the examination has consented to their
42 disclosure, except that the public body shall remove from the
43 minutes any references to the real name of the person who appealed
44 the results of the examination. That person is entitled to a copy of



1 the minutes upon request whether or not they become public
2 records.

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

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

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

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

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

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

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

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

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

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



Sec. 3. NRS 233B.0608 is hereby amended to read as follows:
233B.0608 1. Before conducting a workshop for a proposed regulation pursuant to NRS 233B.061, an agency shall make a concerted effort to determine whether the proposed regulation is likely to:

(a) Impose a direct and significant economic burden upon a small business; or

(b) Directly restrict the formation, operation or expansion of a small business.

2. If an agency determines pursuant to subsection 1 that a proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business, the agency shall:

(a) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation. *If the agency sends a survey or other questionnaire to owners and officers of small businesses, the agency shall give the owners and officers not less than 10 business days to submit a response.*

(b) Conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses. Insofar as practicable, the analysis must be conducted by the employee of the agency who is most knowledgeable about the subject of the proposed regulation and its likely impact on small businesses or by a consultant or other independent contractor who has such knowledge and is retained by the agency.

(c) Consider methods to reduce the impact of the proposed regulation on small businesses, including, without limitation:

(1) Simplifying the proposed regulation;

(2) Establishing different standards of compliance for a small business; and

(3) Modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

(d) Prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to NRS 233B.061. A copy of the statement must accompany the notice required by subsection 2 of NRS 233B.061 and the agenda for the public hearing held pursuant to that section.

3. The agency shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency. The director, executive head or other person who is responsible for the agency shall sign the statement certifying that, to



1 the best of his or her knowledge or belief, a concerted effort was
2 made to determine the impact of the proposed regulation on small
3 businesses and that the information contained in the statement is
4 accurate.

5 4. Each adopted regulation which is submitted to the
6 Legislative Counsel pursuant to NRS 233B.067 must be
7 accompanied by a copy of the small business impact statement and
8 the statement made pursuant to subsection 3. If the agency revises a
9 regulation after preparing the small business impact statement and
10 the statement made pursuant to subsection 3, the agency must
11 include an explanation of the revision and the effect of the change
12 on small businesses.

13 **Sec. 4.** This act becomes effective on July 1, 2019.

