

Amendment No. 383

Senate Amendment to Senate Bill No. 77	(BDR 19-466)
Proposed by: Senate 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) 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.



SENATE BILL NO. 77—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON PUBLIC LANDS)

PREFILED JANUARY 26, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public bodies. (BDR 19-466)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public bodies; exempting certain predecisional and deliberative meetings of public bodies from the requirements of the Open Meeting Law; ~~making certain information related to such meetings confidential;~~ 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) Existing federal law exempts certain predecisional interagency or intraagency memorandums or letters that are part of the deliberative process from disclosure under the federal Freedom of Information Act. (5 U.S.C. § 552) **Sections 1 and 2** of this bill exempt from the requirements of the Open Meeting Law certain meetings conducted by a public body for the purpose of engaging in predecisional and deliberative discussions relating to ~~a decision~~ **an action** under the federal National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.), including, without limitation, the review and discussion of drafts of environmental impact statements describing the environmental effects of proposed actions within the jurisdiction of the public body. ~~Sections 1 and 3 of this bill provide, with limited exception, that any information or materials discussed or exchanged between the public body and a federal agency for the purpose of engaging in predecisional and deliberative discussions with a federal agency relating to the federal National Environmental Policy Act that is deemed confidential by the federal agency under the deliberative process privilege is confidential and not a public record until the privilege expires or the federal agency determines that such information is no longer protected.~~

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

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

~~---~~ ***A public body that has entered into a memorandum of understanding or other agreement with a federal agency for the purpose of engaging with the***

1 *federal agency on ~~the decision~~ an action under the National Environmental*
 2 *Policy Act of 1969, 42 U.S.C. §§ 4321 et seq., may hold a closed meeting to*
 3 *engage in predecisional and deliberative discussions on the subject of the*
 4 *memorandum or agreement. Any such discussions in a closed meeting must:*

5 ~~*(a) 1. Occur only during the period before the decision is adopted by the*~~
 6 ~~*federal agency under the National Environmental Policy Act; and*~~

7 ~~*(b) the federal agency publicly releases the document addressing the action*~~
 8 ~~*under the National Environmental Policy Act and begins the corresponding*~~
 9 ~~*public comment period; and*~~

10 *2. Be required by the federal agency to be kept confidential under the*
 11 *memorandum of understanding or other agreement.* ~~*[with the federal agency.*~~

12 ~~*2. Except as otherwise required by court order, any information or*~~
 13 ~~*materials discussed or exchanged between a public body and a federal agency for*~~
 14 ~~*the purposes of engaging in predecisional and deliberative discussions pursuant*~~
 15 ~~*to subsection 1 that are deemed confidential by the federal agency under the*~~
 16 ~~*deliberative process privilege pursuant to 5 U.S.C. § 552(b)(5) are confidential*~~
 17 ~~*and not a public record for the purposes of chapter 239 of NRS until such time as*~~
 18 ~~*the privilege expires or the federal agency determines that such information is no*~~
 19 ~~*longer protected.]*~~

20 **Sec. 2.** NRS 241.016 is hereby amended to read as follows:

21 241.016 1. The meetings of a public body that are quasi-judicial in nature
 22 are subject to the provisions of this chapter.

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

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

25 (b) Judicial proceedings, including, without limitation, proceedings before the
 26 Commission on Judicial Selection and, except as otherwise provided in NRS
 27 1.4687, the Commission on Judicial Discipline.

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

31 3. Any provision of law, including, without limitation, NRS 91.270,
 32 219A.210, 228.495, 239C.140, 239C.420, 281A.350, 281A.690, 281A.735,
 33 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 288.590,
 34 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388D.355, 388G.710,
 35 388G.730, 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405, 433.534,
 36 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311, 630.336,
 37 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725,
 38 and section 1 of this act, which:

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

41 (b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,
 42 ➤ prevails over the general provisions of this chapter.

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

47 **Sec. 3.** ~~*[NRS 239.010 is hereby amended to read as follows:*~~

48 ~~*239.010 1. Except as otherwise provided in this section and NRS 1.4683,*~~
 49 ~~*1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516,*~~
 50 ~~*62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150,*~~
 51 ~~*76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,*~~
 52 ~~*87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,*~~
 53 ~~*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, 119A.677, 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, 128.090, 130.312, 130.712, 136.050,
159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129,
176.156, 176A.630, 178.39801, 178.4715, 178.5601, 179.495, 179A.070,
179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475,
218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300,
228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140,
239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.030, 241.030,
241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130,
250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105,
281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387,
289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351,
333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240,
360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160,
368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,
388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365,
391.120, 391.925, 392.039, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325,
392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447,
394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115,
408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749,
422.395, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205,
432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840,
439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220,
441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773,
447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164,
453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093,
482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469,
484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,
624.227, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
632.3415, 632.458, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214,
634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485,
639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620,
640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191,
641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800,
642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,
645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,
645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275,~~

~~669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.220, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, and section 1 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2012 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

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

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.~~

~~4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:~~

~~(a) The public record:~~

~~(1) Was not created or prepared in an electronic format; and~~

~~(2) Is not available in an electronic format; or~~

~~(b) Providing the public record in an electronic format or by means of an electronic medium would:~~

~~(1) Give access to proprietary software; or~~

~~(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.~~

~~5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or 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.] (Deleted by amendment.)~~

Sec. 4. This act becomes effective upon passage and approval.