

ASSEMBLY BILL NO. 219—ASSEMBLYWOMAN CONSIDINE

FEBRUARY 23, 2023

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to the Open Meeting Law.
(BDR 19-781)

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; requiring, under certain circumstances, a public body to have an additional period devoted to public comment when a public meeting is continued to another day; prohibiting, with certain exceptions, a public body from considering any item that is not set forth on the original agenda for the meeting if a meeting is continued to a day other than the date set forth on the agenda for the meeting; requiring, under certain circumstances, a public body to post a copy of the notice of a meeting at the building in which the meeting is to be held; requiring, under certain circumstances, a meeting agenda to include clear and complete instructions for a member of the general public to call into a meeting to provide public comment; requiring a member of a public body to attend a certain number of meetings of the public body in person at a physical location; requiring, under certain circumstances, instructions for a member of the general public to call into a meeting to provide public comment to be read verbally verbatim before each period devoted to public comment begins; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 The Open Meeting Law requires a public body to have periods devoted to
2 comments by the general public, if any, and discussion of those comments at a
3 meeting. Specifically, the public body must take public comments: (1) at the
4 beginning of the meeting before any items on which action may be taken are heard
5 and again before the adjournment of the meeting; or (2) after each agenda item on



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which action may be taken is discussed by the public body, but before the public body takes action on the item. Further, a public body may have additional public comment periods in addition to the minimum requirements and 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 point before the adjournment of the meeting. (NRS 241.020) **Section 1** of this bill reorganizes the existing requirements for public comment periods into a new section of the Open Meeting Law. **Section 1** further provides that if a meeting is continued by a public body to: (1) the next business day, the public body may have a public comment period that is in addition to the public comment periods set forth on the agenda; and (2) a day other than the next business day, in addition to the existing public comment requirements, the public body must have at least one more public comment period on the day on which the meeting reconvenes. **Section 1** also provides that if a public body continues a meeting to a day other than the date set forth on the agenda for the meeting, the public body is prohibited from considering any item that is not set forth on the original agenda unless the public body provides the same written notice that is generally required for any meeting of a public body.

The Open Meeting Law requires that written notice of all meetings of a public body be given at least 3 working days before the meeting. The notice must include an agenda consisting of, in relevant part, certain information related to periods devoted to public comment. (NRS 241.020) **Section 2** of this bill requires that, if a meeting is being held using a remote technology system and does not have a physical location designated for the meeting where members of the general public are permitted to attend and participate, the agenda must also include clear and complete instructions for a member of the general public to be able to call into the meeting to provide public comment, including, without limitation, a telephone number and any necessary identification number of the meeting or other access code. **Section 3** of this bill requires such instructions to be read verbally verbatim at the meeting before each period devoted to public comment.

The Open Meeting Law provides that minimum public notice of a meeting of a public body includes posting a copy of the notice at the principal office of the public body. (NRS 241.020) **Section 2** requires that if the meeting has a physical location, the public body must also post a copy of the notice at the building in which the meeting is to be held.

The Open Meeting Law authorizes, under certain circumstances a public body to conduct a meeting by means of a remote technology system. (NRS 241.023) **Section 3** provides that notwithstanding such authority to conduct a meeting by means of a remote technology system, each member of a public body must attend at least 25 percent of the meetings of the public body each year in person at a physical location designated for the meeting where members of the general public are permitted to attend and participate.

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:

1. Except as otherwise provided in this section, comments by the general public must be taken by a public body:

(a) 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



(b) 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.

2. Regardless of whether a public body takes comments from the general public pursuant to paragraph (a) or (b) of subsection 1, 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) of paragraph (d) of subsection 3 of NRS 241.020.

3. The provisions of subsections 1 and 2 do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to subsection 1 or 2.

4. If a meeting is continued by a public body to:

(a) The next business day, the public body may have one or more periods devoted to comments by the general public that are in addition to the periods set forth on the agenda for the meeting pursuant to NRS 241.020.

(b) A day other than the next business day, the public body must have at least one more period devoted to comments by the general public on the day on which the meeting reconvenes that is in addition to the periods set forth on the agenda for the meeting pursuant to NRS 241.020.

5. If a public body continues a meeting to a day other than the date set forth on the agenda for the meeting that was posted pursuant to NRS 241.020, the public body shall not consider any item that is not set forth on the original agenda for the meeting unless the public body provides notice pursuant to NRS 241.020.

Sec. 2. 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 at a physical location or by means of a remote technology system. 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. If any portion of a meeting is open to the public, the public officers and employees responsible for the meeting must make reasonable efforts to ensure the facilities for the meeting are large enough to accommodate the anticipated number of attendees. No violation of this chapter occurs if a member of the public is not permitted to attend a public meeting because the facilities for the meeting have reached maximum capacity if reasonable efforts were taken to accommodate the anticipated number of attendees. Nothing in this subsection requires a public body to incur any costs to secure a facility outside the control or jurisdiction of the public body or to upgrade, improve or otherwise modify an existing facility to accommodate the anticipated number of attendees.

3. 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. If the meeting is held using a remote technology system pursuant to NRS 241.023 and has no physical location, the notice must include information on how a member of the public may:

(1) Use the remote technology system to hear and observe the meeting;

(2) Participate in the meeting by telephone; and

(3) Provide live public comment during the meeting and, if authorized by the public body, provide prerecorded public comment.

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

(c) The name, contact information and business address 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 7 and:

(1) A list of the locations where the supporting material is available to the public; or

(2) Information about how the supporting material may be found on the Internet website of the public body.

(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 regarding a person, the name of that person.

(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.

(8) If the meeting is being held using a remote technology system pursuant to NRS 241.023 and does not have a physical location designated for the meeting where members of the public are permitted to attend and participate, clear and complete instructions for a member of the general public to be able to call into the meeting to provide public comment, including, without limitation, a telephone number and any necessary identification number of the meeting or other access code.

4. Minimum public notice is:



(a) Posting a copy of the notice at the principal office of the public body ~~and~~ *and, if the meeting has a physical location, at the building in which the meeting is to be held.* If the meeting is held using a remote technology system pursuant to NRS 241.023 and has no physical location, the public body must also post the notice to the Internet website of the public body 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 Internet website of the public body.

(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.

(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) Transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

5. 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 4. 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.

6. Except as otherwise provided in paragraph (a) of subsection 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 4. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of



1 technical problems with its website shall not be deemed to be a
2 violation of the provisions of this chapter.

3 7. Upon any request, a public body shall provide, at no charge,
4 at least one copy of:

5 (a) An agenda for a public meeting;

6 (b) A proposed ordinance or regulation which will be discussed
7 at the public meeting; and

8 (c) Subject to the provisions of subsection 8 or 9, as applicable,
9 any other supporting material provided to the members of the public
10 body for an item on the agenda, except materials:

11 (1) Submitted to the public body pursuant to a nondisclosure
12 or confidentiality agreement which relates to proprietary
13 information;

14 (2) Pertaining to the closed portion of such a meeting of the
15 public body; or

16 (3) Declared confidential by law, unless otherwise agreed to
17 by each person whose interest is being protected under the order of
18 confidentiality.

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

24 8. Unless it must be made available at an earlier time pursuant
25 to NRS 288.153, a copy of supporting material required to be
26 provided upon request pursuant to paragraph (c) of subsection 7
27 must be:

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

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

36 ➤ If the requester has agreed to receive the information and material
37 set forth in subsection 7 by electronic mail, the public body shall, if
38 feasible, provide the information and material by electronic mail.

39 9. Unless the supporting material must be posted at an earlier
40 time pursuant to NRS 288.153, and except as otherwise provided in
41 subsection 11, the governing body of a county or city whose
42 population is 45,000 or more shall post the supporting material
43 described in paragraph (c) of subsection 7 to its website not later
44 than the time the material is provided to the members of the
45 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 7. 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.

10. Except as otherwise provided in subsection 11, 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.

11. If a public body holds a meeting using a remote technology system pursuant to NRS 241.023 and has no physical location for the meeting, the public body must:

(a) Have an Internet website; and

(b) Post to its Internet website:

(1) The public notice required by this section; and

(2) Supporting material 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.

➤ The inability of the governing body, as a result of technical problems with its Internet website, to post supporting material pursuant to this subsection shall not be deemed to be a violation of the provisions of this chapter.

12. 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. 3. NRS 241.023 is hereby amended to read as follows:

241.023 1. Except as otherwise provided in subsection 2, a public body may conduct a meeting by means of a remote technology system if:

(a) A quorum is actually or collectively present, whether in person, by using the remote technology system or by means of electronic communication.

(b) Members of the public are permitted to:

(1) Attend and participate at a physical location designated for the meeting where members of the public are permitted to attend and participate; or

(2) Hear and observe the meeting, participate in the meeting by telephone and provide live public comment during the meeting using the remote technology system. A public body may also allow public comment by means of prerecorded messages.

(c) The public body reasonably ensures that any person who is not a member of the public body or a member of the public but is otherwise required or allowed to participate in the meeting is able to participate in the portion of the meeting that pertains to the person using the remote technology system. The public body shall be deemed to have complied with the requirements of this paragraph if the public body provides the person with a web-based link and a telephone number, in case of technical difficulties, that allows the person in real time to attend and participate in the meeting. Nothing in this paragraph requires a public body to provide a person with technical support to address the person's individual hardware, software or other technical issues.

2. If all members of a public body:

(a) Are required to be elected officials, the public body shall not conduct a meeting by means of a remote technology system without a physical location designated for the meeting where members of the public are permitted to attend and participate.

(b) Are not required to be elected officials, the public body shall not conduct a meeting by means of a remote technology system without a physical location designated for the meeting where members of the public are permitted to attend and participate unless the public body complies with the provisions of subsection 11 of NRS 241.020.

3. If any member of a public body attends a meeting by means of a remote technology system, the chair of the public body, or his or her designee, must make reasonable efforts to ensure that:

(a) Members of the public body and members of the public present at the physical location of the meeting can hear or observe each member attending by a remote technology system; and



(b) Each member of the public body in attendance can participate in the meeting.

4. Notwithstanding the provisions of subsections 1, 2 and 3, each member of a public body must attend at least 25 percent of the meetings of the public body each year in person at a physical location designated for the meeting where members of the general public are permitted to attend and participate.

5. If a meeting is conducted pursuant to this section using a remote technology system and does not have a physical location designated for the meeting where members of the public are permitted to attend and participate, before each period devoted to public comment, the clear and complete instructions set forth on the agenda pursuant to NRS 241.020 for a member of the general public to be able to call into the meeting to provide public comment must be read verbally verbatim.

Sec. 4. This act becomes effective on July 1, 2023.

