

[First Reprint]

SENATE, No. 1045

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Makes various changes to law addressing meetings of public bodies to provide public with greater access to meetings and information about meetings.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 29, 2017, with amendments.



(Sponsorship Updated As Of: 2/12/2016)

1 AN ACT making various changes to the law addressing meetings of
2 public bodies and amending P.L.2002, c.91 and amending and
3 supplementing P.L.1975, c.231.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 2 of P.L.1975, c.231 (C.10:4-7) is amended to read
9 as follows:

10 2. The Legislature finds and declares that the right of the public
11 to be present at all meetings of public bodies, and to witness in full
12 detail all phases of the deliberation, policy formulation, and
13 decision making of public bodies, is vital to the enhancement and
14 proper functioning of the democratic process; that secrecy in public
15 affairs fosters the risk of corruption and official misconduct,
16 undermines the faith of the public in government and the public's
17 effectiveness in fulfilling its role in a democratic society, and
18 hereby declares it to be the public policy of this State to insure the
19 right of its citizens to have adequate advance notice of and the right
20 to attend, and to review the minutes and recordings of, all meetings
21 of public bodies at which any business affecting the public is
22 discussed or acted upon in any way except only in those
23 circumstances where otherwise the public interest would be clearly
24 endangered or the personal privacy or guaranteed rights of
25 individuals would be clearly in danger of unwarranted invasion.

26 The Legislature further declares it to be the public policy of this
27 State to insure that the aforesaid rights are implemented pursuant to
28 the provisions of this act so that no confusion, misconstructions or
29 misinterpretations may thwart the purposes hereof.

30 The Legislature, therefore, declares that it is the understanding
31 and the intention of the Legislature that in order to be covered by
32 the provisions of this act a public body must be organized by law
33 and be collectively empowered as a multi-member voting body to
34 spend public funds or affect persons' rights; that, therefore, informal
35 or purely advisory bodies with no effective authority are not
36 covered, nor are groupings composed of a public official with
37 subordinates or advisors, who are not empowered to act by vote
38 such as a mayor or the Governor meeting with department heads or
39 cabinet members, that specific exemptions are provided for the
40 Judiciary, parole bodies, the State Commission of Investigation, the
41 Apportionment Commission and political party organization; that
42 to be covered by the provisions of this act a meeting must be open
43 to all the public body's members, and the members present must
44 intend to discuss or act on the public body's business, except that a
45 subcommittee of a public body may be subject to certain of the act's

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 29, 2017.

1 provisions that address adequate notice of meetings and records of
2 meetings; and therefore, typical partisan caucus meetings and
3 chance encounters of members of public bodies are neither covered
4 by the provisions of this act, nor are they intended to be so covered.
5 (cf: P.L.1981, c.176, s.1)

6
7 2. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Public body" means a commission, authority, board,
11 council, committee or any other group of two or more persons
12 organized under the laws of this State, and collectively empowered
13 as a voting body to perform a public governmental function
14 affecting the rights, duties, obligations, privileges, benefits, or other
15 legal relations of any person, or collectively authorized to spend
16 public funds including the Legislature, but does not mean or include
17 the judicial branch of the government, any grand or petit jury, any
18 parole board or any agency or body acting in a parole capacity, the
19 State Commission of Investigation, the Apportionment Commission
20 established under Article IV, Section III, of the Constitution, or
21 any political party committee organized under Title 19 of the
22 Revised Statutes. "Public body" also means, but is not limited to,
23 an independent authority, redevelopment entity, or improvement
24 authority, as well as any quasi-governmental agency. "Public
25 body" also means, but is not limited to, the New Jersey League of
26 Municipalities, the New Jersey Association of Counties, the New
27 Jersey State Interscholastic Athletic Association, the New Jersey
28 School Boards Association, the Educational Information and
29 Resource Center, and any joint insurance fund established by two or
30 more public bodies, and any substantially similar successor
31 organization or association.

32 b. "Meeting" means and includes any gathering whether
33 corporeal or by means of communication equipment, which is
34 attended by, or open to, all of the members of a public body, or
35 attended by, or open to, all members of a subcommittee if the public
36 body has determined that the meetings of that subcommittee shall
37 be open to the public in accordance with section 18 of P.L. _____,
38 c. _____ (C. _____) (pending before the Legislature as this bill), and held
39 with the intent, on the part of the members of the body present, to
40 discuss or act as a unit upon the specific public business of that
41 body. Meeting does not mean or include any such gathering (1)
42 attended by less than **【an effective majority of the members of】** a
43 quorum of a public body, or (2) attended by or open to all the
44 members of three or more similar public bodies at a convention or
45 similar gathering. Meeting does not include a chance encounter or
46 any gathering at which members of a public body or of a
47 subcommittee do not discuss or act upon the public business of that
48 public body or subcommittee.

- 1 c. "Public business" means and includes all matters which
2 relate in any way, directly or indirectly, to the performance of the
3 public body's functions or the conduct of its business.
- 4 d. "Adequate notice" means written advance notice of at least
5 48 hours, giving the time, date, location and **【**, to the extent
6 known,**】** the agenda of any regular, special or rescheduled meeting,
7 which notice shall accurately state whether formal action may or
8 may not be taken and which shall be (1) prominently posted on the
9 public body's Internet site, if the public body has established an
10 Internet site, and in at least one public place reserved for such or
11 similar announcements, (2) mailed, telephoned, **【**telegraphed**】**
12 faxed, mailed electronically, or hand delivered to at least two
13 newspapers which newspapers shall be designated by the public
14 body to receive such notices because they have the greatest
15 likelihood of informing the public within the area of jurisdiction of
16 the public body of such meetings, one of which shall be the official
17 newspaper, where any such has been designated by the public body
18 or if the public body has failed to so designate, where any has been
19 designated by the governing body of the political subdivision whose
20 geographic boundaries are coextensive with that of the public body
21 and (3) filed with the clerk of the municipality when the public
22 body's geographic boundaries are coextensive with that of a single
23 municipality, with the clerk of the county when the public body's
24 geographic boundaries are coextensive with that of a single county,
25 and with the Secretary of State if the public body has Statewide
26 jurisdiction. For any other public body the filing shall be with the
27 clerk or chief administrative officer of such other public body and
28 each municipal or county clerk of each municipality or county
29 encompassed within the jurisdiction of such public body. Where
30 annual notice or revisions thereof in compliance with section 13 of
31 this act set forth the location of any meeting, no further notice shall
32 be required for such meeting, except for notice pertaining to
33 agendas and formal action on the public body's Internet site, if the
34 body has established an Internet site, and posting in at least one
35 public place reserved for such or similar announcements, transmittal
36 to the newspapers described in paragraph (2) of this subsection and
37 to any member of the public who shall have requested such notice.
38 Notice shall not be considered "adequate notice" within the
39 meaning of this subsection unless it includes the estimated starting
40 time, as nearly so as can be established, for the beginning of the
41 portion of any meeting from which the public is not excluded.
- 42 e. "Agenda" means the list of all items of business to be
43 discussed or voted on at a public meeting. For purposes of
44 providing adequate notice, agendas shall include each individual
45 item to be discussed or acted upon, and a brief description thereof,
46 and shall identify the names of the parties to and approximate dollar
47 amounts of any contracts, including employment contracts, to be
48 discussed or acted upon. No public body shall act upon a matter

1 that is not listed on the agenda ¹ [for which notice was given 48
2 hours prior to the meeting] ¹ . In addition, a public body, upon the
3 affirmative vote of a majority of the members present at a meeting,
4 may add an item to the agenda for that meeting when necessary to
5 deal with a matter of such urgency and importance that a delay for
6 the purpose of providing adequate notice would be likely to result
7 in substantial harm to the public interest, and provided that the
8 minutes contain a statement that explains the reason for adding that
9 item to the agenda, why the item did not appear on the agenda for
10 that meeting, and why delaying consideration of the item would be
11 likely to result in substantial harm to the public interest, except that
12 the Legislature may add an item to its agenda at any time.

13 Whenever a public body releases to the public an agenda of a
14 regular, special, or rescheduled meeting of that public body,
15 pursuant to this subsection, that includes a reference to an
16 attachment, appendix, or other document that is a government
17 record, the ¹ [public body shall simultaneously make] agenda shall
18 include a statement ¹ that ¹ the ¹ attachment, appendix, or other
19 document ¹ shall be ¹ available to the public ¹ [on the public body's
20 Internet website, if the public body has an Internet website, and
21 shall include a statement on the agenda that the attachment,
22 appendix, or other document may be accessed on that website] for
23 inspection, copying, or the purchase of copies. If any member of the
24 public, at least 24 hours prior to a meeting, requests a copy of any
25 attachment, appendix, or other document that is a government record
26 referenced in an agenda, the custodian thereof shall send an electronic
27 copy to the requestor. If such a request is received within 24 hours
28 prior to a meeting, an attachment, appendix, or other document
29 requested shall be made available to the requestor at the meeting of the
30 public body ¹ .

31 f. "Subcommittee" means any subordinate committee of a
32 public body, except the Legislature, regardless of label, that is
33 formally created by that body, comprised of two or more members,
34 but less than a quorum, of the public body.

35 g. "Quasi-governmental agency" means any association,
36 commission, agency, authority, organization, public-private entity,
37 or any other entity, in which one or more public agencies exercise
38 substantial control as evidenced by whether the public agency, as
39 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), maintains the
40 ability to review, approve, or reject the quasi-governmental
41 agency's proposals or plans, holds a beneficial interest in the quasi-
42 governmental agency's assets, is the primary source of funding of,
43 or is indebted to, or is a creditor of, or guarantor of the debts of, the
44 quasi-governmental agency. The term shall not include any
45 organization organized under paragraph (3) of subsection (c) of
46 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
47 that was not created by, or with the approval of, a public agency
48 primarily for the purpose of assisting that public agency or any

1 labor organization or any contractor providing goods or services to
2 a public agency. However, nothing contained herein shall affect the
3 application of P.L.1975, c.231 (C.10:4-6 et seq.) to entities that
4 otherwise fall within the definition of "public body."

5 h. "Quorum" means a majority of the full membership of a
6 public body or of a subcommittee.

7 (cf: P.L.1981, c.176, s.2)

8

9 3. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read
10 as follows:

11 4. a. Except as provided by subsection b. of this section, or for
12 any meeting limited only to consideration of items listed in
13 subsection b. of section 7 [b.] of P.L.1975, c.231 (C.10:4-12), no
14 public body, and no subcommittee which the public body has
15 determined shall have meetings open to the public in accordance
16 with section 18 of P.L. , c. (C.) (pending before the Legislature
17 as this bill), shall hold a meeting unless adequate notice thereof has
18 been provided to the public.

19 b. Upon the affirmative vote of three-quarters of the members
20 present a public body may hold a meeting notwithstanding the
21 failure to provide adequate notice if:

22 (1) such meeting is required in order to deal with matters of
23 such urgency and importance that a delay for the purpose of
24 providing adequate notice would be likely to result in substantial
25 harm to the public interest; and

26 (2) the meeting is limited to discussion of and acting with
27 respect to such matters of urgency and importance; and

28 (3) notice of such meeting is provided as soon as possible
29 following the calling of such meeting by posting written notice of
30 the same on the public body's Internet site, if the public body has
31 established an Internet site and in the public place described in
32 subsection d. of section 3 [d.] of P.L.1975, c.231 (C.10:4-8) above,
33 and also by notifying the two newspapers described in section 3. d.
34 by telephone, **[telegram,]** fax machine, electronic mail, or by
35 delivering a written notice of same to such newspapers; and

36 (4) **[either (a)]** the public body could not reasonably have
37 foreseen the need for such meeting at a time when adequate notice
38 could have been provided **;** or (b) although the public body could
39 reasonably have foreseen the need for such meeting at a time when
40 adequate notice could have been provided, it nevertheless failed to
41 do so**].**

42 (cf: P.L.1975, c.231, s.4)

43

44 4. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read
45 as follows:

46 1. In addition to the notice requirements of the "Open Public
47 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), a public body
48 **[may]** shall provide electronic notice of any meeting of the public

1 body through the Internet, if the public body maintains an Internet
2 site or pages on an Internet site.

3 As used in this section, "electronic notice" means advance notice
4 available to the public via electronic transmission of at least 48
5 hours, giving the time, date, location and **【, to the extent known,】**
6 the agenda of any regular, special or rescheduled meeting, which
7 notice shall accurately state whether formal action may or may not
8 be taken at such meeting.

9 As used in this section, "Internet" means the international
10 computer network of both federal and non-federal interoperable
11 packet switched data networks.

12 (cf: P.L.2002, c.91, s.1)

13

14 5. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
15 as follows:

16 7. a. Except as provided by subsection b. of this section all
17 meetings of public bodies shall be open to the public at all times.
18 Except for communications that are purely administrative or
19 procedural in nature, no member of a public body, other than the
20 Legislature, during any meeting of that public body to which the
21 public is admitted, shall communicate privately, by means of
22 communication equipment, including electronic mail, instant
23 messaging or similar technologies, including directly or indirectly
24 through staff or legal counsel, with any other member of the public
25 body about any matter on the agenda for that meeting, and no
26 member shall communicate privately with any other person, other
27 than staff or legal counsel, about any matter on the agenda for that
28 meeting by means of communication equipment, including
29 electronic mail, instant messaging or similar technologies. Nothing
30 in this act shall be construed to limit the discretion of a public body
31 to permit, prohibit, or regulate the active participation of the public
32 at any meeting, except that a **【municipal governing】** public body
33 **【and a board of education】** , other than the Legislature, shall be
34 required to set aside a portion of every meeting of the **【municipal**
35 **governing】** public body **【or board of education,** the length of the
36 portion to be determined by the municipal governing body or board
37 of education,**】** for public comment at the meeting in question, with
38 such comments being limited to items on the agenda and on any
39 governmental **【or school district】** issue that a member of the public
40 feels may be of concern to and within the authority of the **【residents**
41 **of the municipality or school district】** public body. A public body,
42 other than the Legislature, shall permit all proceedings of any
43 public meeting to be recorded, photographed, audiotaped,
44 videotaped, broadcast or recorded for broadcast by any member of
45 the public or news organization, subject only to such reasonable
46 rules as the public body may adopt prior to the meeting to minimize
47 undue disruption to its meetings.

1 A public body shall prepare a written policy that is intended to
2 maximize public participation and that addresses the amount of time
3 it will devote to receiving public comments at meetings and shall
4 include that written policy on each meeting agenda prepared by the
5 public body and on the public body's Internet site, if the public
6 body has established an Internet site, and in the public place
7 described in subsection d. of section 3 of P.L.1975, c.231 (C.10:4-
8 8). The Director of the Division of Local Government Services in
9 the Department of Community Affairs shall prepare guidelines for
10 public bodies that create minimum standards ensuring public
11 participation.

12 Whenever the provisions of any other law address the receipt of
13 public comments by a public body, the provisions of that law and
14 the provisions of this section shall be complied with to the
15 maximum extent possible and practical; however, the provisions of
16 the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-1 et seq.),
17 regarding the receipt of public comments shall be followed
18 notwithstanding the provisions of this section.

19 b. A public body may exclude the public only from that portion
20 of a meeting at which the public body discusses any:

21 (1) matter which, by express provision of federal law, State
22 statute, or rule of court shall be rendered confidential or excluded
23 from the provisions of subsection a. of this section;

24 (2) matter in which the release of information would impair a
25 right to receive funds from the Government of the United States;

26 (3) material the disclosure of which constitutes an unwarranted
27 invasion of individual privacy such as any records, data, reports,
28 recommendations, or other personal material of any educational,
29 training, social service, medical, health, custodial, child protection,
30 rehabilitation, legal defense, welfare, housing, relocation,
31 insurance, and similar program or institution operated by a public
32 body pertaining to any specific individual admitted to or served by
33 an institution or program, including but not limited to, information
34 relative to the individual's personal and family circumstances, and
35 any material pertaining to admission, discharge, treatment,
36 progress, or condition of any individual, unless the individual
37 concerned (or, in the case of a minor or an incapacitated individual,
38 the individual's guardian) shall request in writing that the material
39 be disclosed publicly;

40 (4) collective bargaining agreement, or the terms and conditions
41 which are proposed for inclusion in any collective bargaining
42 agreement, including the negotiation of the terms and conditions
43 thereof with employees or representatives of employees of the
44 public body;

45 (5) matter involving the purchase, lease, or acquisition of real
46 property with public funds, the setting of banking rates, or
47 investment of public funds, if **[it]** public discussion could adversely
48 affect the public interest if discussion of the matters were disclosed;

1 (6) tactics and techniques utilized in protecting the safety and
2 property of the public, provided that their disclosure could impair
3 that protection, or investigations of violations or **[possible]**
4 probable violations of the law;

5 (7) **[pending or anticipated litigation or contract negotiation]**
6 consultation with legal counsel concerning the legal rights and
7 duties of the public body with regard to current litigation or
8 litigation likely to be filed in connection with any executed contract
9 which the public body is, or is likely to become, a party, or
10 concerning current or anticipated contract negotiations, other than
11 in subsection b. (4) herein in which the public body is, or may
12 become, a party, or matters falling within the attorney-client
13 privilege, to the extent that confidentiality is required in order for
14 the attorney to exercise his ethical duties as a lawyer;

15 (8) matter involving the employment, appointment, termination
16 of employment, **[terms and conditions of employment,]** evaluation
17 of the performance of, promotion, or disciplining of any specific
18 **[prospective public officer or employee or current]** public officer
19 or employee, prospective or current, employed or appointed by the
20 public body **[,** unless all the individual employees or appointees
21 whose rights could be adversely affected request in writing that the
22 matter or matters be discussed at a public meeting**].** Public bodies
23 shall give written notice of at least two business days to any officer
24 or employee, and any adversely affected individual or individuals,
25 in advance of any proposed meeting at which his or her
26 employment, appointment, termination, evaluation of the
27 performance of, promotion or discipline may be discussed. The
28 matter or matters pertaining to him or her shall be discussed in
29 closed session unless the officer or employee and any adversely
30 affected individual or individuals, but not a third party
31 representative, requests in writing that the matter or matters be
32 discussed in open session. This paragraph shall not apply to a
33 public body's discussions or actions relating to tenure matters if any
34 statute or collective bargaining agreement shall provide otherwise.

35 (9) deliberations of a public body occurring after a public
36 hearing that may result in the imposition of a specific civil penalty
37 upon the responding party or the suspension or loss of a license or
38 permit belonging to the responding party as a result of an act or
39 omission for which the responding party bears responsibility.

40 c. The grounds for exclusion of the public set forth in
41 subsection b. of this section shall be construed strictly to minimize
42 instances in which meetings or portions of meetings are closed to
43 the public. The public may not be excluded from a public body's
44 discussion of actual contracts or executed contracts, except that a
45 public body may go into closed session for consultations with legal
46 counsel, pursuant to paragraph (7) of subsection b. of this section,
47 when there is current litigation, or litigation is likely to be filed,

1 concerning an actual or executed contract.

2 (cf: P.L.2013, c.103, s.57)

3

4 6. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
5 as follows:

6 8. No public body shall exclude the public from any meeting to
7 discuss any matter described in subsection b. of section 7 [b.] of
8 P.L.1975, c.231 (C.10:4-12) until the public body shall first adopt a
9 resolution, at a meeting to which the public shall be admitted:

10 a. Stating the **[general nature of the]** reasonably specific
11 subject to be discussed and the reasonably specific basis for
12 excluding the public; and

13 b. Stating as precisely as possible, the time when and the
14 circumstances under which the discussion conducted in closed
15 session of the public body can be disclosed to the public.

16 (cf: P.L.1975, c.231, s.8)

17

18 7. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
19 as follows:

20 9. The Legislature shall keep reasonably comprehensible
21 minutes of all its meetings showing the time and place, the members
22 present, the subjects considered, the actions taken, the vote of each
23 member, and any other information required to be shown in the
24 minutes by law, which shall be promptly available to the public to
25 the extent that making such matters public shall not be inconsistent
26 with section 7 of P.L.1975, c.231 (C.10:4-12). Each public body,
27 other than the Legislature, shall [keep reasonably comprehensible]
28 cause the public body to keep comprehensive minutes of all its
29 meetings, including any portion of a meeting from which the public
30 was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12),
31 showing, at a minimum, the time and place, the members present,
32 the subjects considered, the actions taken, including all motions
33 made, the identities of the moving and seconding members, the vote
34 of each member and each member's stated reasons, if any, for his or
35 her action or vote, the identity of each member of the public who
36 spoke and a summary of what was said, and any other information
37 required to be shown in the minutes by law [, which] . Minutes
38 shall be made available to the public as soon as possible but not
39 later than ¹[60] ¹⁵ days after the ¹[meeting, or by the second]
40 next¹ meeting of the public body occurring after the meeting for
41 which the minutes were prepared ¹[, whichever occurs later]¹ , to
42 the extent that making such matters public shall not be inconsistent
43 with section 7 of P.L.1975, c.231 (C.10:4-12). Any member of a
44 public body, other than the Legislature, who becomes aware of a
45 meeting held in violation of P.L.1975, c.231 (C.10:4-6 et seq.),
46 including electronic communications among members of a public
47 body or of a subcommittee which the public body has determined
48 shall hold meetings open to the public in accordance with section 18

1 of P.L. , c. (C.) (pending before the Legislature as this bill),
2 constituting a quorum thereof, that do not address a purely
3 administrative matter, shall inform the presiding member who shall
4 ensure that minutes of such meetings shall be made, and such
5 electronic communications, if any, shall be ¹included with the
6 minutes of the meeting ¹ filed with the clerk of the public body for a
7 period of time to be determined by the State Records Committee to
8 permit their use in litigation, to enforce the provisions of P.L.1975,
9 c.231 (C.10:4-6 et seq.), or for public access¹ . Each public body,
10 other than the Legislature, that possesses sound recording devices
11 that are available and functioning shall cause to be recorded by
12 those sound recording devices only the public portions of all
13 meetings of that public body, including any emergency meeting
14 held pursuant to section 4 of P.L.1975, c.231 (C.10:4-9), and shall
15 maintain possession of the recordings for a period of time to be
16 determined by the State Records Committee to permit their use in
17 litigation, to enforce the provisions of P.L.1975, c.231 (C.10:4-6 et
18 seq.), or for public access. Sound recordings, or any video
19 recordings, shall reflect the public portions of meetings in their
20 entirety, including the public comment portions of meetings. The
21 unedited recordings shall be promptly made available to the public,
22 but not later than the 5th business day following the meeting, to the
23 extent that making such matters public shall not be inconsistent
24 with section 7 of this act. Public bodies shall only present the
25 recordings as official and authentic representations of the public
26 meetings if presented in their unedited form. Public bodies, if
27 presenting edited versions of the recording, shall conspicuously
28 label such as an edited version and shall include a notification that
29 the official unedited recording is available on request from the
30 public body.

31 A subcommittee of a public body, other than the Legislature,
32 shall prepare reports of its meetings which shall be filed with the
33 public body pursuant to a schedule prepared by the public body,
34 except that every subcommittee shall be required to file at least one
35 report with the public body each quarter. A report shall include a
36 statement of the number of meetings of the subcommittee held since
37 its last report, the names of the members of the subcommittee, and a
38 concise statement of the matters discussed. A report of a
39 subcommittee shall be available for public access in the same
40 manner, and subject to the same limitations on access, as minutes of
41 a meeting of a public body. A subcommittee that has given an oral
42 report at a meeting of the public body of which it is a subcommittee
43 shall be excused from providing the public body with a written
44 report for that quarter.

45 (cf: P.L.1975, c.231, s.9)

46

47 8. Section 10 of P.L.1975, c.231 (C.10:4-15) is amended to
48 read as follows:

1 10. a. Any action taken by a public body at a meeting which
2 does not conform with the provisions of this act shall be voidable in
3 a proceeding in lieu of prerogative writ in the Superior Court, which
4 proceeding may be brought by any person within 45 calendar days
5 after the **【action sought to be voided has been made public】** date of
6 the public meeting at which the minutes memorializing the action
7 sought to be voided are approved and put online pursuant to section
8 16 of P.L. , c. (C.) (pending before the Legislature as this
9 bill); provided, however, that a public body may take corrective or
10 remedial action by acting de novo at a public meeting held in
11 conformity with this act and other applicable law regarding any
12 action which may otherwise be voidable pursuant to this section;
13 and provided further that any action for which advance published
14 notice of at least 48 hours is provided as required by law shall not
15 be voidable solely for failure to conform with any notice required in
16 this act.

17 b. Any party, including any member of the public, may
18 institute a proceeding in lieu of prerogative writ in the Superior
19 Court to challenge any action taken by a public body on the grounds
20 that such action is void for the reasons stated in subsection a. of this
21 section, and if the court shall find that the action was taken at a
22 meeting which does not conform to the provisions of this act, the
23 court shall declare such action void. Any party, other than a public
24 body, that prevails in an action brought pursuant to this section
25 shall be awarded the amount of reasonable attorney's fees incurred
26 in bringing the action. The cost of any attorney's fee awarded by
27 the court shall be paid by the public body.

28 (cf: P.L.1975, c.231, s.10)

29

30 9. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to
31 read as follows:

32 11. Any person, including a member of the public, may apply to
33 the Superior Court for injunctive orders or other remedies to insure
34 compliance with the provisions of this act, and the court shall issue
35 such orders and provide such remedies as shall be necessary to
36 insure compliance with the provisions of this act. Any party, other
37 than a public body, that prevails in an action brought pursuant to
38 this section, shall be awarded the amount of reasonable attorney's
39 fees incurred in bringing the action. The cost of any attorney's fee
40 awarded by the court shall be paid by the public body.

41 (cf: P.L.1975, c.231, s.11)

42

43 10. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
44 read as follows:

45 12. Any person who knowingly violates any of the foregoing
46 sections of this act shall be fined **【\$100.00】** \$250.00 for the first
47 offense and no less than **【\$100.00 nor more than】** \$500.00 for any
48 subsequent offense **【, recoverable by the State by】** . A fine shall be

1 paid by the individual found to have committed the violation out of
2 that individual's personal funds. Under no circumstances shall
3 public funds, or contributions as defined in subsection b. of section
4 3 of P.L.1973, c.83 (C.19:44A-3) of "The New Jersey Campaign
5 Contributions and Expenditures Reporting Act," be used to pay a
6 fine or to reimburse a person who has paid, or will pay, a fine for
7 the cost of that fine. The Attorney General or county prosecutor, or
8 any member of the public, shall have standing to bring an action in
9 Superior Court to prove that a violation of P.L.1975, c.231 (C.10:4-
10 6 et seq.) has occurred.

11 An action may be brought in a summary proceeding under ["the
12 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
13 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
14 The Superior Court shall have jurisdiction to enforce said penalty
15 upon complaint of the Attorney General or the county prosecutor .or
16 any member of the public. Whenever a member of a public body, or
17 any member of the staff of the public body, believes that a meeting
18 of such body is being held in violation of the provisions of this act,
19 he shall immediately state this at the meeting together with specific
20 reasons for his belief which shall be recorded in the minutes of that
21 meeting, and if the meeting is one from which the public is
22 excluded, the member's or staff member's statement and reasons
23 shall also be announced at and recorded in the minutes of the next
24 meeting of the public body at which the public is not excluded.
25 Whenever such a member's or staff member's objections to the
26 holding of such meeting are overruled by the majority of those
27 present, such a member or staff member may continue to participate
28 at such meeting without penalty provided he has complied with the
29 duties imposed upon him by this section.
30 (cf: P.L.1994, c.58, s.41)

31
32 11. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
33 read as follows:

34 13. At least once each year, within 7 days following the annual
35 organization or reorganization meeting of a public body, or if there
36 be no such organization or reorganization meeting in the year, then
37 by not later than January 10 of such year, every public body shall
38 post and maintain posted throughout the year on the public body's
39 Internet site, if the public body has established an Internet site, and
40 in the place reserved for such or similar announcements described
41 in subsection 3. d. (1), mail to the newspapers described in
42 subsection 3. d. (2), submit to the persons described in subsection 3.
43 d. (3), for the purpose of public inspection a schedule of the regular
44 meetings of the public body to be held during the succeeding year.
45 Such schedule shall contain the location of each meeting to the
46 extent it is known, and the time and date of each meeting. In the
47 event that such schedule is thereafter revised, the public body,

1 within 7 days following such revision, shall post, mail and submit
2 such revision in the manner described above.

3 (cf: P.L.1975, c.231, s.13)

4

5 12. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
6 read as follows:

7 14. Any person may request that a public body mail or
8 electronically mail to him, at his option, notice of agendas of all
9 meetings, copies of any regular meeting schedule or revision
10 described in section 13 of this act and any advance written notice
11 described in subsection 3. d. of this act of any regular, special or
12 rescheduled meeting of such body, and upon prepayment by such
13 person of a reasonable sum, if any has been fixed by resolution of
14 the public body to cover the costs of providing such notice, the
15 public body shall mail to such person written advance notice of all
16 of its meetings within the time prescribed by subsection 3. d. herein,
17 subject only to the exceptions set forth in subsection 4. b. herein.
18 Such resolution may provide that notice requested by the news
19 media shall be mailed to such news media free of charge. If a
20 person requests advance written notice by electronic mail, no
21 payment shall be required. All requests for notices made under this
22 section shall terminate at midnight on December 31 of each year,
23 but shall be subject to renewal upon a new request to the public
24 body.

25 (cf: P.L.1975, c.231, s.14)

26

27 13. (New section) In the case of State agencies, other than the
28 Legislature, the Secretary of State, through the Department of State,
29 shall create and maintain an Internet site for the posting of
30 information, including the time, date, location, and purpose, of
31 public hearings and meetings of State agencies. Each State agency
32 shall promptly notify the Secretary of State and submit the
33 necessary information concerning that agency's public hearings and
34 meetings. The secretary shall maintain on that site an electronic
35 public bulletin board that includes a monthly calendar consisting of
36 the meeting notices and agendas of all State agencies, boards and
37 commissions. The public bulletin board shall also include links to
38 other information of interest to the public, including, but not limited
39 to, Executive Branch press releases, State budget information,
40 bidding opportunities, election law enforcement information, and
41 financial and ethics disclosure information. The Internet site
42 created pursuant to this section shall also post information that is
43 provided to the Secretary of State by a public body pursuant to
44 section 16 of P.L. , c. (C.) (pending before the Legislature
45 as this bill). All information posted pursuant to this section shall
46 remain posted for a period of time determined by the State Records
47 Committee.

1 14. (New section) At least quarterly, a public body, other than
2 the Legislature, shall conduct a review of the minutes of any
3 previous meeting when any part has been withheld from public
4 access. The review shall determine whether any part of any minutes
5 that have been withheld from public access can now be made
6 accessible to the public. If the public body determines that any part
7 of previously withheld minutes can now be disclosed to the public,
8 it shall make that part thereof accessible to the public.

9
10 15. (New section) In addition to any other penalties imposed by
11 law, an appointed member of a public body may be removed from
12 the public body by the appointing authority because of two or more
13 violations of P.L.1975, c.231 (C.10:4-6 et seq.) that result in a
14 significant denial of the public's right of access as provided by that
15 act upon a determination by a court of competent jurisdiction that a
16 denial of access was significant.

17
18 16. (New section) a. Every public body, other than the
19 Legislature, that maintains or publishes an Internet site, or maintains or
20 publishes web pages on an Internet site operated by a government or
21 non-public entity, shall have posted on that site: the public body's
22 annual schedule of regular meetings and its agendas of those meetings
23 and revisions thereto; notice of any meeting held without adequate
24 notice pursuant to one of the exceptions to the adequate notice
25 requirement listed in subsection b. of section 4 of P.L.1975, c.231
26 (C.10:4-9); the minutes, prepared pursuant to section 9 of P.L.1975,
27 c.231 (C.10:4-14), of each meeting of the public body, including ¹a
28 statement that¹ the minutes of the closed portion of any meeting ¹【to
29 the extent that those minutes have been made available to the public】
30 shall be available upon request if those minutes have been deemed to
31 be a government record, as defined in section 1 of P.L.1995, c.23
32 (C.47:1A-1.1)¹, which shall remain posted on the site for a period of
33 at least five years from the date of posting; resolutions and ordinances,
34 to the extent they are not already set forth in the minutes; any
35 resolution adopted by the public body for the purpose of complying
36 with the provisions of section 8 of P.L.1975, c.231 (C.10:4-13), which
37 shall remain posted on the site for a period of at least five years from
38 the date of posting; and, in the case of municipalities and counties,
39 their ordinances.

40 b. A public body that does not maintain or publish an Internet site
41 and does not maintain or publish web pages on an Internet site
42 operated by a government or non-public entity shall promptly provide
43 the information specified in subsection a. of this section to the
44 Secretary of State for posting on the Internet site created pursuant to
45 section 13 of P.L. , c. (C.) (pending before the Legislature as
46 this bill). For the purposes of P.L.1975, c. 231 (C.10:4-6 et seq.), the
47 Internet site to which the information is submitted shall be deemed
48 established by each submitting public body.

1 c. A public body that is subject to subsection a. of this section
2 may comply therewith by providing the information specified in
3 subsection a. of this section to the Secretary of State and providing a
4 link thereto on its own website.

5 d. Public bodies that maintain an Internet site or pages on that site
6 pursuant to this section shall provide any requestor with free paper
7 copies of any information that is required to be posted on the Internet
8 site but is not so posted.

9 e. All information posted pursuant to this section shall remain
10 posted for a period of time determined by the State Records
11 Committee.

12

13 17. (New section) When a public body provides information on
14 the Internet, it shall make a reasonable effort to make the existence
15 and location of its site or pages known to members of the public
16 within its jurisdiction by, at a minimum, including such information
17 in its required written public notices, agendas, and minutes and by
18 announcing it at its public meetings.

19

20 18. (New section) A public body shall determine for each
21 subcommittee whether meetings of that subcommittee shall be open to
22 the public. For a meeting of a subcommittee that will be open to the
23 public, the public body shall provide adequate notice of that meeting;
24 however, other requirements applicable to meetings of public bodies
25 shall not apply to meetings of a subcommittee. A subcommittee that
26 holds meetings open to the public may exclude the public only from
27 that portion of a meeting at which the subcommittee discusses matters
28 set forth in subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12),
29 and if pursuant to the procedures set forth in section 8 of P.L.1975,
30 c.231 (C.10:4-13).

31 A public body shall keep reports of meetings of subcommittees
32 'open to the public' in the manner required by section 9 of P.L.1975,
33 c.231 (C.10:4-14).

34

35 19. This act shall take effect on the 120th day after the date of
36 enactment.