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FOURTH REPRINT

A.B. 70

ASSEMBLY BILL NO. 70—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the Open Meeting Law. (BDR 19-421)

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

Legislative Counsel's Digest:

The Open Meeting Law requires a public body to ensure that members of the public body and the public present at a meeting can hear or observe and participate in the meeting if any member of the public body is present by means of teleconference or videoconference. (NRS 241.010) **Section 2** of this bill provides instead that if a member of the public body attends a meeting of the public body by means of teleconference or videoconference, the chair of the public body must make reasonable efforts to ensure that members of the public body and the public can hear or observe each member attending by teleconference or videoconference. **Section 4** of this bill makes a conforming change.

Section 2 authorizes a public body, under certain circumstances, to conduct a public meeting by teleconference or videoconference.

Section 6.2 of this bill requires the public officers and employees responsible for a public meeting to make reasonable efforts to ensure the facilities for that meeting are large enough to accommodate the anticipated number of attendees.

Section 2.5 of this bill provides a public body may delegate authority to the chair or the executive director, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity.

Existing law sets forth the circumstances when a public body is required to comply with the Open Meeting Law. Under existing law, a public body may gather to receive information from an attorney employed or retained by the public body



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23 regarding certain matters without complying with the Open Meeting Law.
24 (NRS 241.015)

25 **Section 5** of this bill authorizes, under certain circumstances, a public body to
26 gather to receive training regarding its legal obligations without complying with the
27 Open Meeting Law.

28 **Section 5** requires, under certain circumstances, a subcommittee or working
29 group of a public body to comply with the provisions of the Open Meeting Law.

30 The Open Meeting Law requires a public body to make supporting material for
31 a meeting of the public body available to the public upon request. (NRS 241.020)
32 **Section 5** defines the term "supporting material."

33 Existing law requires a public body to have a meeting recorded on audiotape or
34 transcribed by a court reporter and provide a copy of the audio recording or
35 transcript to a member of the public upon request at no charge. Existing law also
36 provides this requirement does not prohibit a court reporter from charging a fee to
37 the public body for any services relating to the transcription of a meeting. (NRS
38 241.035) **Section 7** of this bill clarifies that a court reporter who transcribes a
39 meeting is: (1) not prohibited from charging a fee to the public body for the
40 transcription; and (2) not required to provide a copy of any transcript, minutes or
41 audio recording of a meeting directly to a member of the public at no charge.

42 Under existing law, the Attorney General is required to investigate and
43 prosecute any violation of the Open Meeting Law. (NRS 241.039) **Section 10** of
44 this bill: (1) requires, with limited exception, the Attorney General to investigate
45 and prosecute a violation of the Open Meeting Law if a complaint is filed not later
46 than 120 days after the alleged violation; and (2) gives the Attorney General
47 discretion to investigate and prosecute a violation of the Open Meeting Law if a
48 complaint is filed more than 120 days after the alleged violation.

49 **Section 10** further requires: (1) the Attorney General to issue certain findings
50 upon completion of an investigation; and (2) a public body to submit a response to
51 the findings of the Attorney General not later than 30 days after receipt of the
52 Attorney General's findings.

53 Existing law makes each member of a public body who attends a meeting
54 where action is taken in violation of the Open Meeting Law with knowledge of the
55 fact that the meeting is in violation guilty of a misdemeanor and subject to a civil
56 penalty of \$500. (NRS 241.040) **Section 12** of this bill provides instead that each
57 member of a public body who: (1) attends a meeting where any violation of the
58 Open Meeting Law occurs; (2) has knowledge of the violation; and (3) participates
59 in the violation, is guilty of a misdemeanor and subject to an administrative fine,
60 the amount of which is graduated for multiple offenses. **Section 12** also creates an
61 exception to these penalties and fines where the member violated the Open Meeting
62 Law based on legal advice provided by an attorney employed or retained by the
63 public body.

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

1 **Section 1.** Chapter 241 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 2.5 of this act.

3 **Sec. 2. 1. A public body may conduct a meeting by means**
4 **of teleconference or videoconference if:**

5 **(a) A quorum is actually or collectively present, whether in**
6 **person or by means of electronic communication; and**



1 (b) *There is a physical location designated for the meeting*
2 *where members of the public are permitted to attend and*
3 *participate.*

4 2. *If any member of a public body attends a meeting by*
5 *means of teleconference or videoconference, the chair of the*
6 *public body, or his or her designee, must make reasonable efforts*
7 *to ensure that:*

8 (a) *Members of the public body and members of the public*
9 *present at the physical location of the meeting can hear or observe*
10 *each member attending by teleconference or videoconference; and*

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

13 **Sec. 2.5.** *A public body may delegate authority to the chair or*
14 *the executive director of the public body, or an equivalent position,*
15 *to make any decision regarding litigation concerning any action*
16 *or proceeding in which the public body or any member or*
17 *employee of the public body is a party in an official capacity or*
18 *participates or intervenes in an official capacity.*

19 **Sec. 3.** (Deleted by amendment.)

20 **Sec. 4.** NRS 241.010 is hereby amended to read as follows:

21 241.010 ~~[H-]~~ In enacting this chapter, the Legislature finds
22 and declares that all public bodies exist to aid in the conduct of the
23 people's business. It is the intent of the law that their actions be
24 taken openly and that their deliberations be conducted openly.

25 ~~[2.—If any member of a public body is present by means of~~
26 ~~teleconference or videoconference at any meeting of the public~~
27 ~~body, the public body shall ensure that all the members of the public~~
28 ~~body and the members of the public who are present at the meeting~~
29 ~~can hear or observe and participate in the meeting.]~~

30 **Sec. 5.** NRS 241.015 is hereby amended to read as follows:

31 241.015 As used in this chapter, unless the context otherwise
32 requires:

33 1. "Action" means:

34 (a) A decision made by a majority of the members present,
35 whether in person or by means of electronic communication, during
36 a meeting of a public body;

37 (b) A commitment or promise made by a majority of the
38 members present, whether in person or by means of electronic
39 communication, during a meeting of a public body;

40 (c) If a public body may have a member who is not an elected
41 official, an affirmative vote taken by a majority of the members
42 present, whether in person or by means of electronic
43 communication, during a meeting of the public body; or



1 (d) If all the members of a public body must be elected officials,
2 an affirmative vote taken by a majority of all the members of the
3 public body.

4 2. "Deliberate" means collectively to examine, weigh and
5 reflect upon the reasons for or against the action. The term includes,
6 without limitation, the collective discussion or exchange of facts
7 preliminary to the ultimate decision.

8 3. "Meeting":

9 (a) Except as otherwise provided in paragraph (b), means:

10 (1) The gathering of members of a public body at which a
11 quorum is present, whether in person or by means of electronic
12 communication, to deliberate toward a decision or to take action on
13 any matter over which the public body has supervision, control,
14 jurisdiction or advisory power.

15 (2) Any series of gatherings of members of a public body at
16 which:

17 (I) Less than a quorum is present, whether in person or by
18 means of electronic communication, at any individual gathering;

19 (II) The members of the public body attending one or
20 more of the gatherings collectively constitute a quorum; and

21 (III) The series of gatherings was held with the specific
22 intent to avoid the provisions of this chapter.

23 (b) Does not include a gathering or series of gatherings of
24 members of a public body, as described in paragraph (a), at which a
25 quorum is actually or collectively present, whether in person or by
26 means of electronic communication:

27 (1) Which occurs at a social function if the members do not
28 deliberate toward a decision or take action on any matter over which
29 the public body has supervision, control, jurisdiction or advisory
30 power.

31 (2) To receive information from the attorney employed or
32 retained by the public body regarding potential or existing litigation
33 involving a matter over which the public body has supervision,
34 control, jurisdiction or advisory power and to deliberate toward a
35 decision on the matter, or both.

36 (3) *To receive training regarding the legal obligations of*
37 *the public body, including, without limitation, training conducted*
38 *by an attorney employed or retained by the public body, the Office*
39 *of the Attorney General or the Commission on Ethics, if at the*
40 *gathering the members do not deliberate toward a decision or*
41 *action on any matter over which the public body has supervision,*
42 *control, jurisdiction or advisory power.*

43 4. Except as otherwise provided in NRS 241.016, "public
44 body" means:



1 (a) Any administrative, advisory, executive or legislative body
2 of the State or a local government consisting of at least two persons
3 which expends or disburses or is supported in whole or in part by
4 tax revenue or which advises or makes recommendations to any
5 entity which expends or disburses or is supported in whole or in part
6 by tax revenue, including, but not limited to, any board,
7 commission, committee, subcommittee or other subsidiary thereof
8 and includes a library foundation as defined in NRS 379.0056, an
9 educational foundation as defined in subsection 3 of NRS 388.750
10 and a university foundation as defined in subsection 3 of NRS
11 396.405, if the administrative, advisory, executive or legislative
12 body is created by:

13 (1) The Constitution of this State;

14 (2) Any statute of this State;

15 (3) A city charter and any city ordinance which has been
16 filed or recorded as required by the applicable law;

17 (4) The Nevada Administrative Code;

18 (5) A resolution or other formal designation by such a body
19 created by a statute of this State or an ordinance of a local
20 government;

21 (6) An executive order issued by the Governor; or

22 (7) A resolution or an action by the governing body of a
23 political subdivision of this State;

24 (b) Any board, commission or committee consisting of at least
25 two persons appointed by:

26 (1) The Governor or a public officer who is under the
27 direction of the Governor, if the board, commission or committee
28 has at least two members who are not employees of the Executive
29 Department of the State Government;

30 (2) An entity in the Executive Department of the State
31 Government, ~~[consisting of members appointed by the Governor,]~~
32 if the board, commission or committee otherwise meets the
33 definition of a public body pursuant to this subsection; or

34 (3) A public officer who is under the direction of an agency
35 or other entity in the Executive Department of the State Government
36 , ~~[consisting of members appointed by the Governor,]~~ if the board,
37 commission or committee has at least two members who are not
38 employed by the public officer or entity; ~~[and]~~

39 (c) A limited-purpose association that is created for a rural
40 agricultural residential common-interest community as defined in
41 subsection 6 of NRS 116.1201 ~~[]~~; and

42 *(d) A subcommittee or working group consisting of at least two*
43 *persons who are appointed by a public body described in*
44 *paragraph (a), (b) or (c) if:*



1 (1) *A majority of the membership of the subcommittee or*
2 *working group are members or staff members of the public body*
3 *that appointed the subcommittee; or*

4 (2) *The subcommittee or working group is authorized by*
5 *the public body to make a recommendation to the public body for*
6 *the public body to take any action.*

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

9 6. *"Supporting material" means material that is provided to*
10 *at least a quorum of the members of a public body by a member of*
11 *or staff to the public body and that the members of the public body*
12 *would reasonably rely on to deliberate or take action on a matter*
13 *contained in a published agenda. The term includes, without*
14 *limitation, written records, audio recordings, video recordings,*
15 *photographs and digital data.*

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

19 **Sec. 6.** (Deleted by amendment.)

20 **Sec. 6.2.** NRS 241.020 is hereby amended to read as follows:

21 241.020 1. Except as otherwise provided by specific statute,
22 all meetings of public bodies must be open and public, and all
23 persons must be permitted to attend any meeting of these public
24 bodies. A meeting that is closed pursuant to a specific statute may
25 only be closed to the extent specified in the statute allowing the
26 meeting to be closed. All other portions of the meeting must be open
27 and public, and the public body must comply with all other
28 provisions of this chapter to the extent not specifically precluded by
29 the specific statute. Public officers and employees responsible for
30 these meetings shall make reasonable efforts to assist and
31 accommodate persons with physical disabilities desiring to attend.

32 2. *If any portion of a meeting is open to the public, the public*
33 *officers and employees responsible for the meeting must make*
34 *reasonable efforts to ensure the facilities for the meeting are large*
35 *enough to accommodate the anticipated number of attendees. No*
36 *violation of this chapter occurs if a member of the public is not*
37 *permitted to attend a public meeting because the facilities for the*
38 *meeting have reached maximum capacity if reasonable efforts*
39 *were taken to accommodate the anticipated number of attendees.*
40 *Nothing in this subsection requires a public body to incur any*
41 *costs to secure a facility outside the control or jurisdiction of the*
42 *public body or to upgrade, improve or otherwise modify an*
43 *existing facility to accommodate the anticipated number of*
44 *attendees.*



1 3. Except in an emergency, written notice of all meetings must
2 be given at least 3 working days before the meeting. The notice
3 must include:

4 (a) The time, place and location of the meeting.

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

6 (c) The name and contact information for the person designated
7 by the public body from whom a member of the public may request
8 the supporting material for the meeting described in subsection ~~6~~ 7
9 and a list of the locations where the supporting material is available
10 to the public.

11 (d) An agenda consisting of:

12 (1) A clear and complete statement of the topics scheduled to
13 be considered during the meeting.

14 (2) A list describing the items on which action may be taken
15 and clearly denoting that action may be taken on those items by
16 placing the term "for possible action" next to the appropriate item
17 or, if the item is placed on the agenda pursuant to NRS 241.0365, by
18 placing the term "for possible corrective action" next to the
19 appropriate item.

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

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

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

29 ➔ The provisions of this subparagraph do not prohibit a public body
30 from taking comments by the general public in addition to what is
31 required pursuant to sub-subparagraph (I) or (II). Regardless of
32 whether a public body takes comments from the general public
33 pursuant to sub-subparagraph (I) or (II), the public body must allow
34 the general public to comment on any matter that is not specifically
35 included on the agenda as an action item at some time before
36 adjournment of the meeting. No action may be taken upon a matter
37 raised during a period devoted to comments by the general public
38 until the matter itself has been specifically included on an
39 agenda as an item upon which action may be taken pursuant to
40 subparagraph (2).

41 (4) If any portion of the meeting will be closed to consider
42 the character, alleged misconduct or professional competence of a
43 person, the name of the person whose character, alleged misconduct
44 or professional competence will be considered.



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

4 (6) Notification that:

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

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

8 (III) The public body may remove an item from the
9 agenda or delay discussion relating to an item on the agenda at any
10 time.

11 (7) Any restrictions on comments by the general public. Any
12 such restrictions must be reasonable and may restrict the time, place
13 and manner of the comments, but may not restrict comments based
14 upon viewpoint.

15 ~~§~~ 4. Minimum public notice is:

16 (a) Posting a copy of the notice at the principal office of the
17 public body or, if there is no principal office, at the building in
18 which the meeting is to be held, and at not less than three other
19 separate, prominent places within the jurisdiction of the public body
20 not later than 9 a.m. of the third working day before the meeting;

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

26 (c) Providing a copy of the notice to any person who has
27 requested notice of the meetings of the public body. A request for
28 notice lapses 6 months after it is made. The public body shall inform
29 the requester of this fact by enclosure with, notation upon or text
30 included within the first notice sent. The notice must be:

31 (1) Delivered to the postal service used by the public body
32 not later than 9 a.m. of the third working day before the meeting for
33 transmittal to the requester by regular mail; or

34 (2) If feasible for the public body and the requester has
35 agreed to receive the public notice by electronic mail, transmitted to
36 the requester by electronic mail sent not later than 9 a.m. of the third
37 working day before the meeting.

38 ~~§~~ 5. For each of its meetings, a public body shall document
39 in writing that the public body complied with the minimum public
40 notice required by paragraph (a) of subsection ~~§~~ 4. The
41 documentation must be prepared by every person who posted a copy
42 of the public notice and include, without limitation:

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



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

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

5 ~~5.1~~ 6. If a public body maintains a website on the Internet or
6 its successor, the public body shall post notice of each of its
7 meetings on its website unless the public body is unable to do so
8 because of technical problems relating to the operation or
9 maintenance of its website. Notice posted pursuant to this
10 subsection is supplemental to and is not a substitute for the
11 minimum public notice required pursuant to subsection ~~3.1~~ 4. The
12 inability of a public body to post notice of a meeting pursuant to this
13 subsection as a result of technical problems with its website shall
14 not be deemed to be a violation of the provisions of this chapter.

15 ~~6.1~~ 7. Upon any request, a public body shall provide, at no
16 charge, at least one copy of:

17 (a) An agenda for a public meeting;

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

20 (c) Subject to the provisions of subsection ~~7 or 8.1~~ 8 or 9, as
21 applicable, any other supporting material provided to the members
22 of the public body for an item on the agenda, except materials:

23 (1) Submitted to the public body pursuant to a nondisclosure
24 or confidentiality agreement which relates to proprietary
25 information;

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

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

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

36 ~~7.1~~ 8. Unless it must be made available at an earlier time
37 pursuant to NRS 288.153, a copy of supporting material required to
38 be provided upon request pursuant to paragraph (c) of subsection ~~6.1~~
39 7 must be:

40 (a) If the supporting material is provided to the members of the
41 public body before the meeting, made available to the requester at
42 the time the material is provided to the members of the public body;
43 or

44 (b) If the supporting material is provided to the members of the
45 public body at the meeting, made available at the meeting to the



1 requester at the same time the material is provided to the members
2 of the public body.

3 ↪ If the requester has agreed to receive the information and material
4 set forth in subsection ~~6.1~~ 7 by electronic mail, the public body
5 shall, if feasible, provide the information and material by electronic
6 mail.

7 ~~8.1~~ 9. Unless the supporting material must be posted at an
8 earlier time pursuant to NRS 288.153, the governing body of a
9 county or city whose population is 45,000 or more shall post the
10 supporting material described in paragraph (c) of subsection ~~6.1~~ 7 to
11 its website not later than the time the material is provided to the
12 members of the governing body or, if the supporting material is
13 provided to the members of the governing body at a meeting, not
14 later than 24 hours after the conclusion of the meeting. Such posting
15 is supplemental to the right of the public to request the supporting
16 material pursuant to subsection ~~6.1~~ 7. The inability of the governing
17 body, as a result of technical problems with its website, to post
18 supporting material pursuant to this subsection shall not be deemed
19 to be a violation of the provisions of this chapter.

20 ~~9.1~~ 10. A public body may provide the public notice,
21 information or supporting material required by this section by
22 electronic mail. Except as otherwise provided in this subsection, if a
23 public body makes such notice, information or supporting material
24 available by electronic mail, the public body shall inquire of a
25 person who requests the notice, information or supporting material
26 if the person will accept receipt by electronic mail. If a public body
27 is required to post the public notice, information or supporting
28 material on its website pursuant to this section, the public body shall
29 inquire of a person who requests the notice, information or
30 supporting material if the person will accept by electronic mail a
31 link to the posting on the website when the documents are made
32 available. The inability of a public body, as a result of technical
33 problems with its electronic mail system, to provide a public notice,
34 information or supporting material or a link to a website required by
35 this section to a person who has agreed to receive such notice,
36 information, supporting material or link by electronic mail shall not
37 be deemed to be a violation of the provisions of this chapter.

38 ~~10.1~~ 11. As used in this section, “emergency” means an
39 unforeseen circumstance which requires immediate action and
40 includes, but is not limited to:

- 41 (a) Disasters caused by fire, flood, earthquake or other natural
42 causes; or
43 (b) Any impairment of the health and safety of the public.



1 **Sec. 6.5.** NRS 241.033 is hereby amended to read as follows:

2 241.033 1. Except as otherwise provided in subsection 7, a
3 public body shall not hold a meeting to consider the character,
4 alleged misconduct, professional competence, or physical or mental
5 health of any person or to consider an appeal by a person of the
6 results of an examination conducted by or on behalf of the public
7 body unless it has:

8 (a) Given written notice to that person of the time and place of
9 the meeting; and

10 (b) Received proof of service of the notice.

11 2. The written notice required pursuant to subsection 1:

12 (a) Except as otherwise provided in subsection 3, must be:

13 (1) Delivered personally to that person at least 5 working
14 days before the meeting; or

15 (2) Sent by certified mail to the last known address of that
16 person at least 21 working days before the meeting.

17 (b) May, with respect to a meeting to consider the character,
18 alleged misconduct, professional competence, or physical or mental
19 health of a person, include an informational statement setting forth
20 that the public body may, without further notice, take administrative
21 action against the person if the public body determines that such
22 administrative action is warranted after considering the character,
23 alleged misconduct, professional competence, or physical or mental
24 health of the person.

25 (c) Must include:

26 (1) A list of the general topics concerning the person that will
27 be considered by the public body during the closed meeting; and

28 (2) A statement of the provisions of subsection 4, if
29 applicable.

30 3. The Nevada Athletic Commission is exempt from the
31 requirements of subparagraphs (1) and (2) of paragraph (a) of
32 subsection 2, but must give written notice of the time and place of
33 the meeting and must receive proof of service of the notice before
34 the meeting may be held.

35 4. If a public body holds a closed meeting or closes a portion of
36 a meeting to consider the character, alleged misconduct,
37 professional competence, or physical or mental health of a person,
38 the public body must allow that person to:

39 (a) Attend the closed meeting or that portion of the closed
40 meeting during which the character, alleged misconduct,
41 professional competence, or physical or mental health of the person
42 is considered;

43 (b) Have an attorney or other representative of the person's
44 choosing present with the person during the closed meeting; and



1 (c) Present written evidence, provide testimony and present
2 witnesses relating to the character, alleged misconduct, professional
3 competence, or physical or mental health of the person to the public
4 body during the closed meeting.

5 5. Except as otherwise provided in subsection 4, with regard to
6 the attendance of persons other than members of the public body
7 and the person whose character, alleged misconduct, professional
8 competence, physical or mental health or appeal of the results of an
9 examination is considered, the chair of the public body may at any
10 time before or during a closed meeting:

11 (a) Determine which additional persons, if any, are allowed to
12 attend the closed meeting or portion thereof; or

13 (b) Allow the members of the public body to determine, by
14 majority vote, which additional persons, if any, are allowed to attend
15 the closed meeting or portion thereof.

16 6. A public body shall provide a copy of any record of a closed
17 meeting prepared pursuant to NRS 241.035, upon the request of any
18 person who received written notice of the closed meeting pursuant
19 to subsection 1.

20 7. For the purposes of this section:

21 (a) A meeting held to consider an applicant for employment is
22 not subject to the notice requirements otherwise imposed by this
23 section.

24 (b) Casual or tangential references to a person or the name of a
25 person during a ~~closed~~ meeting do not constitute consideration of
26 the character, alleged misconduct, professional competence, or
27 physical or mental health of the person.

28 *(c) A meeting held to recognize or award positive achievements*
29 *of a person, including, without limitation, honors, awards, tenure*
30 *and commendations, is not subject to the notice requirements*
31 *otherwise imposed by this section.*

32 **Sec. 7.** NRS 241.035 is hereby amended to read as follows:

33 241.035 1. Each public body shall keep written minutes of
34 each of its meetings, including:

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

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

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

42 (d) The substance of remarks made by any member of the
43 general public who addresses the public body if the member of the
44 general public requests that the minutes reflect those remarks or, if
45 the member of the general public has prepared written remarks, a



1 copy of the prepared remarks if the member of the general public
2 submits a copy for inclusion.

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

5 ➔ Unless good cause is shown, a public body shall approve the
6 minutes of a meeting within 45 days after the meeting or at the next
7 meeting of the public body, whichever occurs later.

8 2. Minutes of public meetings are public records. Minutes or an
9 audio recording of a meeting made in accordance with subsection 4
10 must be made available for inspection by the public within 30
11 working days after adjournment of the meeting. A copy of the
12 minutes or audio recording must be made available to a member of
13 the public upon request at no charge. The minutes shall be deemed
14 to have permanent value and must be retained by the public body for
15 at least 5 years. Thereafter, the minutes may be transferred for
16 archival preservation in accordance with NRS 239.080 to 239.125,
17 inclusive. Minutes of meetings closed pursuant to:

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

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

27 (c) Paragraph (c) of subsection 1 of NRS 241.030 become
28 public records when the public body determines that the matters
29 considered no longer require confidentiality and the person who
30 appealed the results of the examination has consented to their
31 disclosure, except that the public body shall remove from the
32 minutes any references to the real name of the person who appealed
33 the results of the examination. That person is entitled to a copy of
34 the minutes upon request whether or not they become public
35 records.

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

40 4. Except as otherwise provided in subsection ~~7~~ 8, a public
41 body shall, for each of its meetings, whether public or closed, record
42 the meeting on audiotape or another means of sound reproduction or
43 cause the meeting to be transcribed by a court reporter who is
44 certified pursuant to chapter 656 of NRS. If a public body makes an



1 audio recording of a meeting or causes a meeting to be transcribed
2 pursuant to this subsection, the audio recording or transcript:

3 (a) Must be retained by the public body for at least ~~{1-year}~~ **3**
4 **years** after the adjournment of the meeting at which it was recorded
5 or transcribed;

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

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

11 5. The requirement set forth in subsection 2 that a public body
12 make available a copy of the minutes or audio recording of a
13 meeting to a member of the public upon request at no charge does
14 not ~~{}:~~

15 ~~—(a) Prohibit~~ **prohibit** a court reporter who is certified pursuant
16 to chapter 656 of NRS from charging a fee to the public body for
17 any services relating to the transcription of a meeting. ~~{}:or~~

18 ~~—(b) Require a~~

19 **6.** A court reporter who transcribes a meeting **is not required** to
20 provide a copy of any transcript, minutes or audio recording of the
21 meeting prepared by the court reporter **directly** to a member of the
22 public at no charge.

23 ~~{6}~~ **7.** Except as otherwise provided in subsection ~~{7}~~ **8**, any
24 portion of a public meeting which is closed must also be recorded or
25 transcribed and the recording or transcript must be retained and
26 made available for inspection pursuant to the provisions of
27 subsection 2 relating to records of closed meetings. Any recording
28 or transcript made pursuant to this subsection must be made
29 available to the Attorney General upon request.

30 ~~{7}~~ **8.** If a public body makes a good faith effort to comply
31 with the provisions of subsections 4 and ~~{6}~~ **7** but is prevented from
32 doing so because of factors beyond the public body's reasonable
33 control, including, without limitation, a power outage, a mechanical
34 failure or other unforeseen event, such failure does not constitute a
35 violation of the provisions of this chapter.

36 **Sec. 8.** (Deleted by amendment.)

37 **Sec. 9.** (Deleted by amendment.)

38 **Sec. 10.** NRS 241.039 is hereby amended to read as follows:

39 241.039 1. A complaint that alleges a violation of this
40 chapter may be filed with the Office of the Attorney General. **The**
41 **Office of the Attorney General shall notify a public body identified**
42 **in a complaint of the alleged violation not more than 14 days after**
43 **the complaint is filed.**

44 2. Except as otherwise provided in **subsection 3 and** NRS
45 241.0365, the Attorney General ~~{shall}~~ **:**



1 (a) *Shall* investigate and prosecute any violation of this chapter
2 ~~F~~ *alleged in a complaint filed not later than 120 days after the*
3 *alleged violation with the Office of the Attorney General.*

4 (b) *Except as otherwise provided in paragraph (c), shall not*
5 *investigate and prosecute any violation of this chapter alleged in a*
6 *complaint filed with the Office of the Attorney General later than*
7 *120 days after the alleged violation.*

8 (c) *May, at his or her discretion, investigate and prosecute any*
9 *violation of this chapter alleged in a complaint filed more than*
10 *120 days after the alleged violation with the Office of the Attorney*
11 *General if:*

12 (1) *The alleged violation was not discoverable at the time*
13 *that the alleged violation occurred; and*

14 (2) *The complaint is filed not more than 1 year after the*
15 *alleged violation with the Office of the Attorney General.*

16 3. *The Attorney General is not required to investigate or*
17 *prosecute any alleged violation of this chapter if the Attorney*
18 *General determines that the interests of the person who filed the*
19 *complaint are not significantly affected by the action of the public*
20 *body that is alleged to violate this chapter. For purposes of this*
21 *subsection, the interests of the person who filed the complaint are*
22 *not significantly affected by the action of the public body that is*
23 *alleged to violate this chapter unless:*

24 (a) *The person who filed the complaint would have standing to*
25 *challenge the action of the public body in a court of law; or*

26 (b) *The person who filed the complaint:*
27 (1) *Is a natural person and resides within the geographic*
28 *area over which the public body has jurisdiction; or*

29 (2) *Is any form of business, a social organization, a labor*
30 *organization or any other nongovernmental legal entity in this*
31 *State that has a mission or purpose to foster or protect democratic*
32 *principles or promote transparency in government.*

33 4. Except as otherwise provided in subsection ~~F~~ 7 and NRS
34 239.0115, all documents and other information compiled as a result
35 of an investigation conducted pursuant to subsection 2 are
36 confidential until the investigation is closed.

37 ~~F~~ 5. In any investigation conducted pursuant to subsection 2,
38 the Attorney General may issue subpoenas for the production of any
39 relevant documents, records or materials.

40 ~~F~~ 6. A person who willfully fails or refuses to comply with a
41 subpoena issued pursuant to this section is guilty of a misdemeanor.

42 ~~F~~ 7. The following are public records:

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



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

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

8 **8. Upon completion of an investigation conducted pursuant**
9 **to subsection 2, the Attorney General shall inform the public body**
10 **that is the subject of the investigation and issue, as applicable:**

11 (a) *A finding that no violation of this chapter occurred; or*

12 (b) *A finding that a violation of this chapter occurred, along*
13 *with findings of fact and conclusions of law that support the*
14 *finding that a violation of this chapter occurred.*

15 **9. A public body or, if authorized by the public body, an**
16 **attorney employed or retained by the public body, shall submit a**
17 **response to the Attorney General not later than 30 days after**
18 **receipt of any finding that the public body violated this chapter. If**
19 **the Attorney General does not receive a response within 30 days**
20 **after receipt of the finding, it shall be deemed that the public body**
21 **disagrees with the finding of the Attorney General.**

22 **Sec. 11.** NRS 241.0395 is hereby amended to read as follows:

23 241.0395 1. If the Attorney General makes findings of fact
24 and conclusions of law that a public body has ~~taken action in~~
25 ~~violation of~~ **violated** any provision of this chapter, the public body
26 must include an item on the next agenda posted for a meeting of the
27 public body which acknowledges **the existence of** the findings of
28 fact and conclusions of law. The opinion of the Attorney General
29 must be treated as supporting material for the item on the agenda for
30 the purposes of NRS 241.020.

31 2. The inclusion of an item on the agenda for a meeting of a
32 public body pursuant to subsection 1 is not an admission of
33 wrongdoing for the purposes of a civil action, criminal prosecution
34 or injunctive relief.

35 **Sec. 12.** NRS 241.040 is hereby amended to read as follows:

36 241.040 1. ~~Each~~ **Except as otherwise provided in**
37 **subsection 6, each** member of a public body who attends a meeting
38 of that public body where ~~action is taken in violation of~~ any
39 ~~provision~~ **violation** of this chapter ~~, with~~ **occurs, has** knowledge
40 of the ~~fact that the meeting is in violation thereof,~~ **violation and**
41 **participates in the violation,** is guilty of a misdemeanor.

42 2. ~~Wrongful~~ **Except as otherwise provided in subsection 6,**
43 **wrongful** exclusion of any person or persons from a meeting is a
44 misdemeanor.



3. A member of a public body who attends a meeting of that public body at which ~~action is taken in~~ a violation of this chapter *occurs* is not the accomplice of any other member so attending.

4. ~~It is~~ *Except as otherwise provided in subsection 6, in addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where ~~action is taken in violation of~~ any ~~provision~~ violation of this chapter ~~;~~ *occurs* and who participates in such ~~action the meeting~~ violation with knowledge of the violation, is subject to ~~a civil penalty~~ *an administrative fine* in an amount not to exceed :*

(a) *For a first offense*, \$500 ~~[-The Attorney General may recover the penalty]~~ ;

(b) *For a second offense*, \$1,000; and

(c) *For a third or subsequent offense*, \$2,500.

5. *The Attorney General may recover the penalty* in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the ~~date of the action taken in violation of this chapter.~~ *fine is assessed.*

6. *No criminal penalty or administrative fine may be imposed upon a member of a public body pursuant to this section if a member of a public body violates a provision of this chapter as a result of legal advice provided by an attorney employed or retained by the public body.*

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)



- 1 **Sec. 33.** (Deleted by amendment.)
- 2 **Sec. 34.** (Deleted by amendment.)
- 3 **Sec. 35.** (Deleted by amendment.)
- 4 **Sec. 36.** (Deleted by amendment.)
- 5 **Sec. 37.** (Deleted by amendment.)

