

10:4-6 to 21

March 29, 1976

LEGISLATIVE HISTORY OF NJSA 10:4-6 to 4-21  
"Open Public Meetings Act"

PREVIOUS BILLS

A2222 (1972-73)

Introduced by Baer, Orechio and Hawkins.  
Sponsors' statement reads same as statement<sup>on</sup> A1030 (1974-75).  
Died in Committee.  
~~Copy enclosed.~~

The bill which became law is

Laws of 1975, Chapter 231 A1030 (3rd OCR)

January 28, 1974 - Introduced by Baer and 71 others.  
March 14, 1974 - Public hearing held.  
April 8, 1974 - Public hearing held. [The Newark Star-Ledger reported on April 9, 1974, that a public hearing had been held the day before in Newark (see "'Open meetings' encounter friction" enclosed with newsclippings). The State Library was unable to locate transcripts of this hearing].  
October 29, 1974 - Reported with committee amendments.  
February 27, 1975 - More assembly amendments adopted.  
April 7, 1975 - Passed in Assembly as amended.  
July 23, 1975 - Senate amendments adopted.  
July 14, 1975 - Passed in Senate as amended.  
July 30, 1975 - Senate amendments passed in Assembly.  
October 9, 1975 - Public hearing held. Transcripts of hearing held at Governor Byrne's request are not available. (See "Open meetings worth red face", Trenton Evening Times, 10/10/75 enclosed with newsclippings.)  
October 21, 1975 - Approved.

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Sponsor's statement to original A1030:

The public's right to know the true source of governmental decisions and to witness in full detail the process of public policy formulation is frequently obstructed by the inability of members of the public and the press to attend certain policy-making sessions of public bodies. This bill would put the conduct of public business on an entirely open basis by requiring all discussions and decisions of public bodies, including those now held or made in "executive sessions," to take place at meetings open to the public and for which adequate notice has been given.

Action taken without adequate notice would be invalid except under special procedures for demonstrable emergencies. Highly embarrassing required notices would discourage public bodies from using avoidable emergencies to circumvent adequate notice requirements.

Confidential deliberation would be permitted only in those exceptions where, otherwise, the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

-See also amended "Statement" attached to Assembly Amendments to A1030 ~~(ENCLOSED)~~

~~Copies of original bill and amendments enclosed.~~

-Governor's Statement on signing enclosed.

-FINAL VERSION ENCLOSED (AMENDMENTS DURING PASSAGE DENOTED BY ASTERISKS)

HEARINGS AND REPORTS

974.90 N.J. Legislature, Assembly, Judiciary Committee.  
A673 Public Hearing on A1030 (The Open Public Meetings Act).  
1974a March 14, 1974. [Contains original A1030 w/statement].

974.90 N.J. The Attorney General's Committee on the Right to Know.  
A673 New Jersey's Right to Know: A Report on Open Government,  
1974b 1974.

N.J. Dept. of State  
Guidelines on the 'Open Public Meetings Law' [This pamphlet -  
was reprinted at 98N.J.L.J. 1081, 1094-1095, December 25, 1975].

N.J. Dept. of Law and Public Safety, Division of Law.  
Attorney General's Formal Opinion No. 2, 1976 (January 19, 1976),  
copy enclosed

BACKGROUND MATERIALS

320.4 Gilson, Lawrence. Money and secrecy: A citizen's guide to  
Gil reforming state and federal practices. Common Cause. Published  
by Praeger, 1972, p. 122 (enclosed) [See also: Appendix B--  
Model Open Meetings Bill, pp.252-254, copy enclosed].

974.905 New Jersey Press Association. "Study Shows Some Newspapers  
J562 Failed to Expose Secret Meetings," in 40A The Jersey Publisher  
4, Oct. 1972 (copy enclosed).

974.905 Klein, Harold M. "The Agenda Meeting" in 49 New Jersey  
M96 Municipalities 14, December 1972 (copy enclosed).

974.901 Cahill, William T. Third Annual Message, January 9, 1973,  
G52 pp.12-13 (copy enclosed.)

HF  
5185.5  
285  
A35  
1974  
~~1829~~ Adams, John B. State Open Meetings Laws: An Overview.  
P6 Columbia Mo., Freedom of Information Foundation [1974].  
A214

974.905 Ferguson, David J. "The Open Meeting Policy" in 52 New  
M96 Jersey Municipalities 7, February 1975 (copy enclosed).

974.905 Schragger, Bruce M. "What the Open Public Meetings Act  
M96 Means to Municipalities" in 52 New Jersey Municipalities  
6, December 1975 (Copies of pages 6 and 7 only--remainder  
of article is reprint of law.)

See also:

Legislative History of R.S. 10:4-1 to 5,  
Laws of 1960, Chapter 173 "Right to Attend  
Public Meetings".

#### JOURNAL ARTICLES

45 Mississippi Law Journal 1151 (1974)  
"Open Meetings Laws: An Analysis and a Proposal",  
comment by William R. Wright II [Comparison&analysis  
of states' legislation]

53 North Carolina Law Review 451 (1975)  
"Open Government Laws: An Insider's View",  
article by Joseph W. Little and Thomas Tompkins.

#### NEWSPAPER CLIPPINGS

The articles listed below, selected from the State  
Library's Vertical File, have been photocopied and enclosed.

NJ--Public Meetings 1972-1974  
NJ--Public Meetings 1975

(The entire contents of each folder may be examined  
at the State Library).

Common Cause scores N.J. Laws on government,  
BR 11/7/72.

Secrecy report delayed,  
Sunday SL, 5/27/73.

Kugler offer plan to make records public,  
NSL, 1/12/74.

Bill due in Assembly in executive sessions,  
APEP 1/21/74.

Groups react to 'open meeting' bill,  
NSL 3/15/74.

Open meetings plan faces revisions in legislature,  
APEP 3/21/74.

'Open meetings' encounter friction, NSL 4/9/74.  
Another Sunbeam: Vineland,  
ACP 8/31/74 (editorial)

Judiciary Committee sends out 'open meetings' bill,  
NSL 10/30/74.

Open-meeting bill fought,  
BR 11/26/74.

Assembly votes to tape most debates,  
NSL 2/5/75.

Democrats promise vote on public meetings bill,  
BR 2/24/75.

Evening public meetings,  
NSL 2/25/75.

Loopholes in state 'sunshine law' cast eclipse on  
open meetings, ACP 4/13 75.

Princeton hears open meeting pitch,  
TET 4/2/75.

Night work voted for freeholders,  
NSL 8/5/75.

Byrne hints at veto of open meetings bill,  
Trentonian 9/12/75.

Byrne draws blast for threatened veto of  
sunshine bill, Trentonian 10/3/75.

'Sunshine' bill signing urged,  
NSL 9/29/75.

Common Cause urges 'sunshine' bill okay,  
TET 10/1/75.

'Sunshine' law is no disaster, Florida group advises Byrne,  
TET 10/5/75.

Floridian to defend 'Sunshine',  
TET 10/7/75.

Florida Wants Byrne to put 'Sun' in N.J.,  
Trentonian 10/9/75.

Open meetings WORTH RED FACES,  
TET 10/10/75.

Byrne voices doubts, but signs 'Sunshine Bill',  
NSL 10/22/75.

Lobby presses 'Sunshine',  
NSL 10/23/75.

Bateman questions Sunshine Law limits,  
NSL 10/26/75.

'Sunshine' to open bipartisan caucuses,  
CCP 12/9/75.

JAA/ks

CHAPTER 231 LAWS OF N. J. 1975  
APPROVED 10-21-75

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1030

# STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1974

By Assemblymen BAER, WOODSON, HAMILTON, KEAN, BARBOUR, OWENS, MARTIN, KLEIN, Assemblywoman WILSON, Assemblymen WEIDEL, PERSKIE, WORTHINGTON, VAN WAGNER, SALKIND, HAWKINS, LefANTE, FITZPATRICK, STEWART, YATES SWEENEY, RUANE, GEWERTZ, HOLLENBECK, VISOTCKY, HERMAN, FROUDE MacINNES, FORAN, CONTILLO, GLADSTONE, OTLOWSKI, FLYNN, NERI, FLORIO, McMANIMON, KOZLOSKI, GREGORIO, D'AMBROSA, McCARTHY, RYS, Assemblywomen CURRAN, CROCE, Assemblyman KARCHER, Assemblywoman TOTARO, Assemblymen BROWN, GORMAN, PERKINS, JACKMAN, GALLO, NEWMAN, DOYLE, DEVERIN, CODEY, KEEGAN, ADUBATO, CALI, ESPOSITO, Assemblywoman BURGIO, Assemblymen CHINNICI, EWING, HURLEY, ORECHIO, BATE, SCHUCK, BORNHEIMER, SINSIMER, PELLECCIA, SNEDEKER, GALLAGHER, HICKS, PATERO, GARRUBBO and RIZZOLO

Referred to Committee on Judiciary

AN ACT concerning meetings of certain public bodies and repealing  
P. L. 1960, c. 173.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Open Public  
2 Meetings Act."

1 2. The Legislature finds and declares that the right of the public  
2 to be present at all meetings of public bodies, and to witness in  
3 full detail all phases of the deliberation, policy formulation, and  
4 decision making of public bodies, is vital to the enhancement and

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

5 proper functioning of the democratic process; that secrecy in public  
 6 affairs undermines the faith of the public in government and the  
 7 public's effectiveness in fulfilling its role in a democratic society,  
 8 and hereby declares it to be the public policy of this State to insure  
 9 the right of its citizens to have adequate advance notice of and the  
 10 right to attend all meetings of public bodies at which any business  
 11 affecting the public is discussed or acted upon in any way except  
 12 only in those circumstances where otherwise the public interest  
 13 would be clearly endangered or the personal privacy or guaranteed  
 14 rights of individuals would be clearly in danger of unwarranted  
 15 invasion.

16 \*\*\*The Legislature further declares it to be the public policy  
 17 of this State to insure that the aforesaid rights are implemented  
 18 pursuant to the provisions of this act so that no confusions, mis-  
 19 constructions or misinterpretations may thwart the purposes  
 20 hereof.

21 The Legislature, therefore, declares that it is the understanding  
 22 and the intention of the Legislature that in order to be covered  
 23 by the provisions of this act a public body must be organized by  
 24 law and be collectively empowered as a multi-member voting body  
 25 to spend public funds or affect persons' rights; that, therefore,  
 26 informal or purely advisory bodies with no effective authority are  
 27 not covered, nor are groupings composed of a public official with  
 28 subordinates or advisors, who are not empowered to act by vote  
 29 such as a mayor or the Governor meeting with department heads  
 30 or cabinet members, that specific exemptions are provided for the  
 31 Judiciary, parole bodies, the State Commission of Investigation,  
 32 and political party organizations; that to be covered by the pro-  
 33 visions of this act a meeting must be open to all the public body's  
 34 members, and the members present must intend to discuss or act  
 35 on the public body's business; and therefore, typical partisan  
 36 caucus meetings and chance encounters of members of public bodies  
 37 are neither covered by the provisions of this act, nor are they  
 38 intended to be so covered.\*\*\*

1 3. As used in this act:

2 a. "Public body" means a commission, authority, board, council,  
 3 committee \***[and every]**\* \*or any\* other group \*of two or more  
 4 persons\* organized under the laws of this State \***[consisting of**  
 5 two or more persons]\*, \*and collectively empowered\* \*\*as a  
 6 voting body\*\* to perform a public governmental function\*\***[.]**\*\*  
 7 \*affecting the rights, duties, obligations, privileges, benefits,  
 8 or other legal relations of any person, or collectively authorized  
 9 to spend public funds\* including the Legislature, \***[and any**

10 committee composed of members of such public body or  
 11 appointed or established by it,]\* but does not mean or include  
 11A \*\*[the office of the Governor,]\*\* the judicial branch  
 12 of the government, *\*any grand or petit jury,\** any parole board or  
 13 any agency or body acting in a parole capacity, the State Com-  
 14 mission of Investigation *\*or any political party committee orga-  
 15 nized under Title 19 of the Revised Statutes.\**

16 b. "Meeting" means and includes any gathering *\*whether  
 17 corporeal or by means of communication equipment, which is\*  
 17A attended by, or open to, all of the members of a public body, held  
 17B with the intent, on the part of the members of the body \*present\*,  
 17C to discuss or act \*[upon public business]\* *\*as a unit upon the  
 17D specific public business of that body. Meeting does not mean or  
 17E include any such gathering (1) attended by less than an effective  
 17F majority of the members of a public body, or (2) attended by or  
 18 open to all the members of three or more similar public bodies at a  
 18A convention or similar gathering\*.**

18B c. "Public business" means and includes all matters \*[acted  
 18C upon or discussed by a public body]\* which relate in any way,  
 18D directly or indirectly, to the performance of \*[its]\* *\*the public  
 18E body's\* functions or the conduct of its business.*

19 \*[d. "Act upon or discuss" means and includes the discussion  
 20 and voting upon motions, resolutions, rules, regulations, policies,  
 21 ordinances and statutes; discussion as to whether or not any of the  
 22 same shall be adopted or acted upon or placed on the agenda of  
 23 the public body for present or future action; discussion or action  
 24 pertaining to the procedures to be followed by the public body in  
 25 conducting any meeting, or any hearing it may hold or propose  
 26 to hold, or the procedure to be followed by it with respect to any  
 27 matter coming before it; discussions which relate in any way to  
 28 the taking or not taking of any action by the public body or any  
 29 of its agents, employees, committees or agencies; and discussions  
 30 or actions which relate in any way to the governmental functions  
 31 for which the public body was established.]\*

32 \*[e.]\* *\*d.\* "Adequate notice" means written advance notice of  
 33 at least \*[72]\* *\*48\* hours, giving the time, date, \*[and]\* location  
 34 \*[of the proposed meeting or meetings,]\* *\*and, to the extent  
 35 known, the agenda of any regular, special, or rescheduled meeting,  
 36 which notice shall accurately state whether formal action may or  
 37 may not be taken and which shall be\* (1) prominently posted in at  
 38 least one public place reserved for such or similar announcements,  
 39 (2) mailed\*, telephoned, telegrammed, or hand delivered\* to at***



40 least two newspapers \***[**circulating in the municipality in which  
 41 the proposed meeting is to be held, at least one of which news-  
 42 papers is regularly published at least 5 days per week and at  
 43 least**]**\* *\*which newspapers shall be designated by the public body*  
 44 *to receive such notices because they have the greatest likelihood*  
 45 *of informing the public within the area of jurisdiction*  
 46 *of the public body of such meetings,\** one of which  
 47 *\***[is]**\* shall be* the official newspaper, where any such  
 48 has been designated by the public body or *\***[**applicable*  
 49 *political subdivision,**]**\* if the public body has failed to so desig-*  
 50 *nate, where any has been designated by the governing body of the*  
 51 *political subdivision whose geographic boundaries are coextensive*  
 52 *with that of the public body\** and (3) filed with the clerk of the  
 53 municipality**\*****[**, or the clerk of the county or the Secretary of State  
 54 in the case respectively of municipal, county or other public  
 55 bodies**]**\* *\*when the public body's geographic boundaries are*  
 56 *coextensive with that of a single municipality, with the clerk of the*  
 57 *county when the public body's geographic boundaries are coexten-*  
 58 *sive with that of a single county, and with the Secretary of State if*  
 59 *the public body \*\***[is a State agency]**\*\* has Statewide juris-*  
 60 *isdiction\*\*.* For any other public body the filing shall  
 60A be with the clerk or chief administrative officer of such  
 61 other public body and each municipal or county clerk of each munici-  
 62 pality or county encompassed within the jurisdiction of such public  
 63 body. Where annual notice or revisions thereof in compliance with  
 64 section 13 of this act sets forth the location of any meeting, no  
 65 further notice shall be required for such meeting\*.

1 4. a. Except as provided by subsection b. of this section, or for  
 2 any meeting limited only to consideration of items listed in sec-  
 3 tion *\***[**6. b.**]**\* 7. b.\** no public body shall hold a meeting unless  
 4 adequate notice thereof has been provided to the public.

5 b. *\***[A]**\* Upon the affirmative vote of three quarters of the*  
 6 *members present a\** public body may hold a meeting notwithstand-  
 6A ing the failure to provide adequate notice if:

7 (1) such meeting is required in order to deal with matters of  
 8 such urgency and importance that a delay for the purpose of pro-  
 9 viding adequate notice would be likely to result in substantial harm  
 10 to the public interest; and

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

13 (3) notice of such meeting is provided as soon as possible fol-  
 14 lowing the calling of such meeting by posting written notice of the

15 same in the public place described in section **\*[3. e.]\*** *\*3. d.\** above,  
 16 and also by notifying the two newspapers described in section  
 17 **\*[3. e.]\*** *\*3. d.\** by telephone, telegram, or by delivering a written  
 18 notice of same to such newspapers; and

19 (4) either (a) the public body could not reasonably have fore-  
 20 seen the need for such meeting at a time when adequate notice  
 21 could have been provided; or (b) although the public body could  
 22 reasonably have foreseen the need for such meeting at a time when  
 23 adequate notice could have been provided, it nevertheless failed to  
 24 do so.

1 5. At the commencement of every meeting of a public body the  
 2 person presiding shall announce publicly, and shall cause to be  
 3 entered in **\*[any]\*** *\*the\** minutes of the meeting, **\*[a]\*** *\*an*  
 3A *accurate\** statement to the effect:

4 a. that adequate notice of the meeting has been provided, specify-  
 5 ing the time, place, and manner in which such notice was pro-  
 6 vided; or

7 b. that adequate notice was not provided, in which case such  
 8 announcement shall state (1) the nature of the urgency and im-  
 9 portance referred to in subsection 4. b. (1) and the nature of the  
 10 substantial harm to the public interest likely to result from a  
 11 delay in the holding of the meeting; (2) that the meeting will be  
 12 limited to discussion of and acting with respect to such matters  
 13 of urgency and importance; (3) the time, place, and manner in  
 14 which notice of the meeting was provided; and (4) either (a) that  
 15 the need for such meeting could not reasonably have been foreseen  
 16 at a time when adequate notice could have been provided, in which  
 17 event, such announcement shall specify the reason why such need  
 18 could not reasonably have been foreseen; or (b) that such need  
 18A could reasonably have been foreseen at a time when adequate notice  
 19 could have been provided, but such notice was not provided, in  
 20 which event the announcement shall specify the reason why ade-  
 21 quate notice was not provided.

1 *\*6. No person or public body shall fail to invite a portion of its*  
 2 *members to a meeting for the purpose of circumventing the pro-*  
 3 *visions of this act.\**

1 **\*[6.]\*** *\*7.\** a. Except as provided by **\*[subsections]\*** *\*subsec-*  
 2 *tion\** b. **\*[and c.]\*** of this section all meetings of public bodies shall  
 2A be open to the public at all times. *\*Nothing in this act shall be con-*  
 2B *strued to limit the discretion of a public body to permit, prohibit or*  
 2C *regulate the active participation of the public* **\*\*[of]\*\*** *\*\*at\*\**  
 2D *any meeting.\**

3 b. A public body may exclude the public only from that portion  
4 of a meeting at which the public body discusses:

5 (1) Any matter which, by express provision of **\*\*[State or]\*\***  
6 *Federal* law **\*[is]\*** *or* **\*\*[regulation]\*\*** *State statute or rule*  
7 *of court* shall be rendered confidential or **\*[is]\*** excluded from  
7A the provisions of subsection a. of this section.

8 (2) Any matter in which the release of information would im-  
9 pair a right to receive funds from the Government of the United  
10 States.

11 (3) Any **\*[personal]\*** *material the disclosure of which consti-*  
12 *tutes an unwarranted invasion of individual privacy such as any*  
13 records, data, reports, recommendations, or other personal ma-  
14 terial of any educational, training, social service, medical, health,  
15 custodial, child protection, rehabilitation, legal defense, welfare,  
16 housing, relocation, insurance and similar program or institution  
17 operated by a public body pertaining to any specific individual  
18 admitted to or served by such institution or program, including but  
19 not limited to information relative to the individual's personal and  
20 family circumstances, and any material pertaining to admission,  
21 discharge, treatment, progress or condition of any individual,  
22 unless the individual concerned (or, *in the case of a minor or in-*  
22A *competent,* his guardian) shall request in writing that the same be  
22B disclosed publicly.

23 (4) Any collective bargaining agreement, **\*[or proposed collec-**  
24 *tive bargaining agreement,]* or the terms and conditions which  
25 **\*\*[the public body proposes to include]\*\*** *are proposed for*  
26 *inclusion* in any collective bargaining agreement, including  
27 *the negotiation of the terms and conditions thereof with employees*  
28 *or representatives of employees of the public body* **\*[, including**  
29 *the negotiation of the terms and conditions thereof with employees*  
30 *or representatives of employees of the public body; provided,*  
30A *however, that any such collective bargaining agreement shall be*  
30B *finally approved by the public body only at a meeting to which the*  
30C *public is admitted]*.

31 (5) Any matter involving the purchase, *lease or acquisition* of  
32 **\*[lands]\*** *real property* with public funds, the protection of  
33 the physical safety of public officials, **\*\*\*, the setting of banking**  
34 *rates* *or investment of public funds, where it could adversely*  
35 *affect the public interest if discussion of such matters were dis-*  
35A *closed.*

36 **\*(6) \*\*[The]\*\*** *Any* tactics and techniques utilized in pro-  
37 *tecting the safety and property of the public, provided that their*

38 disclosure could impair such protection. Any\* investigations of  
 39 violations or possible violations of the law\***[, any]**\*.\*

40 \*(7) Any\* pending or anticipated litigation or contract negotia-  
 41 tion other than in subsection b. (4) herein in which the public body  
 42 is, or may become a party\*\*.\***[, or other activities where the ac-**  
 42A **complishment of the object of the public body is likely to be**  
 42B **materially prejudiced if its action or proposed action is made**  
 42C **publicly known prior to the accomplishment of such object; pro-**  
 42D **vided, however, that before discussing or acting upon any matter**  
 42E **described in this subsection, the public body shall first adopt a**  
 42F **resolution, at a meeting to which the public shall be admitted:**

43 (a) stating the general nature of the subject to be acted  
 44 upon or discussed;

45 (b) determining that accomplishment of the object of the  
 46 public body is likely to be materially prejudiced if its action  
 47 or proposed action is made publicly known prior to the ac-  
 48 complishment of such object, and stating, in general terms,  
 49 the reasons why such material prejudice would be likely to  
 50 result, and, as precisely as possible, the time when or the  
 51 circumstances under which the action or discussion of the  
 52 public body can be disclosed to the public]\* \*\***[\*Matters]**\*\*  
 52A **\*\*Any matters\*\* falling within the attorney-client privilege,**  
 52B **to the extent that confidentiality is required in order for the**  
 52C **attorney to exercise his ethical duties as a lawyer.\***

53 **\*[(6)]\* \*(8)\*** Any matter involving the employment, **\*[con-**  
 54 **tinued employment]\* \*appointment\***, termination of employment,  
 55 terms and conditions of employment, evaluation of the perform-  
 56 ance of, **\*promotion\*** or disciplining of**\*[,]\*** any **\*[individual]\***  
 57 **\*specific prospective public officer or employee or current public**  
 58 **officer or employee\*** employed **\*or appointed\*** by the public body,  
 59 unless **\*[the public body has received from]\* \*all\*** the individual  
 60 **\*[employee or]\*** employees **\*or appointees\*** whose rights could be  
 61 adversely affected **\*[a consent]\* \*request\*** in writing that such  
 62 matter or matters **\*[may]\*** be discussed at a **\*public\*** meeting  
 63 **\*[from which the public is excluded]\***.

64 **\*(9) Any deliberations of a public body occurring after a public**  
 65 **hearing that may result in the imposition of a specific civil penalty**  
 66 **upon the responding party or the suspension or loss of a license or**  
 67 **permit belonging to the responding party as a result of an act or**  
 68 **omission for which the responding party bears responsibility.\***

1 **\*8. No public body shall exclude the public from any meeting to**  
 2 **discuss any matter described in subsection 7. b. until the public body**

3 shall first adopt a resolution, at a meeting to which the public shall  
4 be admitted:

5 a. Stating the general nature of the subject to be discussed; and

6 **\*\*[b. Determining that the accomplishment of the object of the**  
7 **public body is likely to be materially prejudiced if its proposed**  
8 **action were to be currently made publicly known, and stating in**  
9 **general terms, the reasons why such material prejudice would be**  
10 **likely to result, and]****\*\* \*\*b. Stating\*\* as precisely as possible, the**  
11 **time when and the circumstances under which the discussion con-**  
12 **ducted in closed session of the public body can be disclosed to the**  
12A **public\*\*.\* \*\* [; or**

13 c. Stating that the matters to be discussed conform to subsec-  
14 tions 7. b. (1), 7. b. (2), 7. b. (3), or 7. b. (8) of this act.\*]\*\*

1 \*9. Each public body shall keep reasonably comprehensible  
2 minutes of all its meetings showing the time and place, the members  
3 present, the subjects considered, the actions taken, the vote of each  
4 member, and any other information required to be shown in the  
5 minutes by law, which shall be **\*\*promptly\*\*** available to the public  
6 to the extent that making such matters public shall not be incon-  
7 sistent with section 7 of this act.\*

1 **\*[7.]\* \*10.\*** a. Any action taken by a public body at a meeting  
2 which does not conform with the provisions of this act shall be  
2A **\*[void]\* \*voidable in a proceeding in lieu of prerogative writ in**  
2B **the Superior Court, which proceeding may be brought by any per-**  
2C **son \*\*[and shall be brought by any person]\*\* within 45 days after**  
2D **the action sought to be voided has been made public; provided, how-**  
2E **ever, that a public body may take corrective or remedial action by**  
2F **acting de novo at a public meeting held in conformity with this act**  
2G **and other applicable law regarding any action which may otherwise**  
2H **be voidable pursuant to this section\*\*;** and provided further that  
2I any action for which advance published notice of at least 48 hours  
2J is provided as required by law shall not be voidable solely for  
2K failure to conform with any notice required in this act\*\*.\*

3 b. Any party, including any member of the public, may institute  
4 a proceeding in lieu of prerogative writ in the Superior Court to  
5 challenge any action taken by a public body on the grounds that  
6 such action is void for the reasons stated in subsection a. of this  
7 section, and if the court shall find that the action was taken at a  
8 meeting which does not conform to the provisions of this act, the  
9 court shall declare such action void.

1 **\*[8.]\* \*11.\*** Any person, including a member of the public, may  
2 apply to the Superior Court for injunctive orders or other remedies

3 to insure compliance with the provisions of this act, and the court  
4 shall issue such orders and provide such remedies as shall be  
5 necessary to insure compliance with the provisions of this act.

1 \***[9.]**\* \*12.\* Any person who knowingly \***[**participates in a  
2 meeting of a public body of which he is a member, not held in  
3 accordance with the provisions of this act, is a disorderly person**]**\*  
4 *\*violates any of the foregoing sections of this act shall be fined*  
5 *\$100.00 for the first offense and no less than \$100.00 nor more than*  
6 *\$500.00 for any subsequent offense, recoverable by the State by a*  
7 *summary proceeding under the "Penalty Enforcement Law"*  
8 *(N. J. S. 2A:58-1 et seq.). The county district court of the county*  
9 *in which the violation occurred shall have jurisdiction to enforce*  
10 *said penalty upon complaint of the Attorney General or the county*  
11 *prosecutor\*\*, but the Attorney General or county prosecutor may*  
12 *refer the matter to the Public Advocate\*\*. Whenever a member*  
13 *of a public body believes that a meeting of such body is being held*  
14 *in violation of the provisions of this act, he shall immediately state*  
15 *this at the meeting together with specific reasons for his belief*  
16 *which shall be recorded in the minutes of that meeting. Whenever*  
17 *such a member's objections to the holding of such meeting are*  
18 *overruled by the majority of those present, such a member may*  
19 *continue to participate at such meeting without penalty provided he*  
20 *has complied with the duties imposed upon him by this section.\**

1 \***[10.]**\* \*13.\* At least once each year, within 7 days following the  
2 annual organization or reorganization meeting of a public body, or  
3 if there be no such organization or reorganization meeting in  
4 \***[any]**\* *\*the\** year, then by not later than January \***[7]**\* \*10\* of  
5 such year, every public body shall post *\*and maintain posted*  
6 *throughout the year\** in the place described in subsection  
7 \***[3. e. (1)]**\* \*3. d. (1)\*, mail to the newspapers described in sub-  
8 section \***[3. e. (2)]**\* \*3. d. (2)\*, submit to the persons described in  
9 subsection \***[3. e. (3)]**\* \*3. d. (3)\*, for the purpose of public in-  
9A spection a schedule of the regular meetings of the public body  
9B to be held during the succeeding year. Such schedule shall contain  
10 the location of each meeting to the extent it is known, and the time  
11 and date of each meeting. In the event that such schedule is there-  
12 after revised, the public body, within 7 days following such revision,  
13 shall post, mail and submit such revision in the manner described  
14 above.

1 \***[11.]**\* \*14.\* Any person may request that a public body mail  
2 to him *\*copies of any regular meeting schedule or revision*  
3 *described in section 13 of this act and any\** advance written notice

# A1030 3<sup>rd</sup> OCR Statement

10

4 \***[of all meetings]**\* *\*described in subsection 3. d. of this act of any*  
5 *regular, special or rescheduled meeting\** of such body, and upon  
6 prepayment by such person of a reasonable sum, if any has been  
7 fixed by resolution of the public body to cover the costs of provid-  
8 ing such notice, the public body shall mail to such person written  
9 advance notice of all of its meetings within the time prescribed by  
10 subsection **\*[3. e.]\*** *\*3. d.\** herein, subject only to the exceptions  
11 set forth in subsection 4. b. herein. *\*Such resolution may provide*  
12 *that notice requested by the news media shall be mailed to such*  
13 *news media free of charge. All requests for notices made under this*  
14 *section shall terminate at midnight on December 31 of each year,*  
15 *but shall be subject to renewal upon a new request to the public*  
16 *body.\**

1 **\*[12.]\*** *\*15.\** If any section, subsection, clause, sentence, para-  
2 graph, or part of this act or the application thereof to any person  
3 or circumstances, shall, for any reason, be adjudged by a court of  
4 competent jurisdiction to be invalid, such judgment shall not affect,  
5 impair, or invalidate the remainder of this act.

1 **\*[13.]\*** *\*16.\** This act shall be liberally construed in order to  
2 accomplish its purpose and the public policy of this State as set  
3 forth in section 2.

1 **\*[14.]\*** *\*17.\** P. L. 1960, c. 173 (C. 10:4-1 to 10:4-5) is repealed.

1 **\*[15.]\*** *\*18.\** This act shall take effect 90 days after its enact-  
2 ment.

---

## **\*\*STATEMENT\*\***

*\*\*This bill requires that the public and the press have advance notice of and the opportunity to attend most meetings, including executive sessions, of public bodies, except where the public interest or individual rights would be jeopardized. The public's right to know the process by which governmental decisions are made and to witness that process in full detail may be obstructed by needlessly barring members of the public and the press from certain policy-making meetings of public bodies. If the public and the press cannot attend, they cannot learn of many positions that are considered or taken at such meetings by individual officials serving the public. Lack of this information can lessen public confidence in governmental decisions and impair the public's function of holding officials accountable in a democracy.*

*Section 3 determines the scope of the act by defining "public body," "meeting" and "public business." To be covered, a public body must be organized by law and be collectively empowered*

*as a multi-member voting body to spend public funds or affect persons' rights. Therefore, informal or purely advisory bodies with no effective authority are not covered. Neither are groupings composed of a public official with subordinates or advisors, such as a mayor or the Governor meeting with department heads or cabinet members who are not empowered to act by vote. Specific exemptions are provided for the judiciary, parole bodies, the State Commission of Investigation and political party organizations.*

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*Public business, to be covered, need merely be related in some way to the public body's function or business.*

*Section 3 also defines the "adequate notice" which is required for the public body's regular and special meetings. Normally, 48 hours' advance notice must be prominently posted, filed with a certain officer of the public body, and provided to two newspapers. Publication of legal notice is not required.*

*Section 4 prohibits meetings without adequate notice except upon a 3/4 vote of the members present where the only matters that may be discussed are matters of such urgency, that waiting to give notice would result in substantial harm to the public interest. Notice of the meeting must be posted and provided to two newspapers as soon as possible.*

*Section 5 requires a statement at every meeting confirming that adequate notice was provided or if it was not provided, presenting the reasons why it was not provided. Embarrassing statements required for avoidable emergencies are intended to discourage public officials from circumventing notice requirements by deliberately waiting until matters become emergencies.*

*Section 6 prohibits purposely circumventing the act by failing to invite one or more members of a public body so that a meeting of a majority of a public body would not qualify under section 3 b.*

*Section 7 provides that a public body may limit public participation in its meetings. In addition, specific topics which a public body may be permitted to discuss in private are listed. Private deliberation is permitted in cases where the public interest would otherwise be endangered or the personal privacy or guaranteed rights*



*of individuals would be in danger of unwarranted invasion. Public bodies may meet in closed session when the matters under discussion (1) are considered confidential by federal law, state statute or court rule, (2) would jeopardize receipt of federal funds, (3) constitute an unwarranted invasion of individual privacy, (4) concern collective bargaining, (5) involve purchase, lease or investment using public funds, or concern the setting of banking rates, (6) concern investigations of violations or possible violations of the law, or techniques of protecting the safety and property of the public, where disclosure of such techniques could impair such protection, (7) are covered by the attorney-client privilege, (8) concern personnel, or (9) involve certain proceedings which could result in a civil penalty, suspension, or loss of license.*

*Section 8 requires that whenever a public body seeks to meet in private, it must first pass a resolution at a public meeting stating its intention to do so. The resolution must also state the general nature of the matters to be discussed and approximately when, if ever, the matters discussed can be made public.*

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*Section 10 provides that actions taken by a public body at a meeting not held in accordance with this act are voidable in Superior Court upon legal action brought by any person, provided that the action is filed within 45 days after the action in question has been made public. A public body may correct an action which does not comply with this act by acting anew at any time at a public meeting that does comply with this act; however such corrective action does not eliminate any individual liability for penalties under section 12. Section 10 also provides that an action such as adoption of an ordinance where there has been advance published notice of at least 48 hours shall not be voidable solely for failure to conform with notice requirements of this act.*

*Section 11 grants any citizen the right to apply for injunctive orders or other remedies to guarantee compliance with this act.*

*Section 12 provides \$100.00 penalties for a first offense of knowingly violating the preceding sections of the act and penalties of up*

*to \$500.00 for subsequent offenses. Action for penalties may be brought in any county district court in the county where the alleged violation occurred, but only by appropriate officials in order to guard against harrassment of members of the public body.*

*Under section 13, a yearly schedule and any revised schedule of any regular meetings are to be posted and distributed similarly to the 48-hour advance notice of meetings. However, unavailable information such as meeting locations or information on special meetings need not be included in such annual notices or revisions as long as they are provided in the 48-hour notice.*

*Section 14 requires public bodies to mail meeting notices to any member of the public and the media requesting them and authorizes charging a small fee, from which the media may be exempt, to cover the costs of notifying such parties.\*\**

A 1030  
Sponsor's statement

6

1 9. Any person who knowingly participates in a meeting of a  
2 public body of which he is a member, not held in accordance with  
3 the provisions of this act, is a disorderly person.

1 10. At least once each year, within 7 days following the annual  
2 organization or reorganization meeting of a public body, or if  
3 there be no such organization or reorganization meeting in any  
4 year, then by not later than January 7 of such year, every public  
5 body shall post in the place described in subsection 3. e. (1), mail  
6 to the newspapers described in subsection 3. e. (2), submit to the  
7 persons described in subsection 3. e. (3), for the purpose of public  
8 inspection a schedule of the regular meetings of the public body  
9 to be held during the succeeding year. Such schedule shall contain  
10 the location of each meeting to the extent it is known, and the time  
11 and date of each meeting. In the event that such schedule is there-  
12 after revised, the public body, within 7 days following such revision,  
13 shall post, mail and submit such revision in the manner described  
14 above.

1 11. Any person may request that a public body mail to him ad-  
2 vance written notice of all meetings of such body, and upon pre-  
3 payment by such person of a reasonable sum, if any has been fixed  
4 by resolution of the public body to cover the costs of providing  
5 such notice, the public body shall mail to such person written ad-  
6 vance notice of all of its meetings within the time prescribed by  
7 subsection 3. e. herein, subject only to the exceptions set forth in  
8 subsection 4. b. herein.

1 12. If any section, subsection, clause, sentence, paragraph, or  
2 part of this act or the application thereof to any person or circum-  
3 stances, shall, for any reason, be adjudged by a court of competent  
4 jurisdiction to be invalid, such judgment shall not affect, impair,  
5 or invalidate the remainder of this act.

1 13. This act shall be liberally construed in order to accomplish  
2 its purpose and the public policy of this State as set forth in sec-  
3 tion 2.

1 14. P. L. 1960, c. 173 (C. 10:4-1 to 10:4-5) is repealed.

1 15. This act shall take effect 90 days after its enactment.

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STATEMENT

The public's right to know the true source of governmental decisions and to witness in full detail the process of public policy formulation is frequently obstructed by the inability of members of the public and the press to attend certain policy-making sessions of public bodies. This bill would put the conduct of public business

on an entirely open basis by requiring all discussions and decisions of public bodies, including those now held or made in "executive sessions," to take place at meetings open to the public and for which adequate notice has been given.

Action taken without adequate notice would be invalid except under special procedures for demonstrable emergencies. Highly embarrassing required notices would discourage public bodies from using avoidable emergencies to circumvent adequate notice requirements.

Confidential deliberation would be permitted only in those exceptions where, otherwise, the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.



ASSEMBLY AMENDMENTS TO  
**ASSEMBLY, No. 1030**

[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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ADOPTED FEBRUARY 27, 1975

Amend page 2, section 3, line 5, after "empowered", insert "as a voting body".

Amend page 2, section 3, line 6, after "function", omit ",".

Amend page 2, section 3, line 11, after "include", omit "the office of the Governor,".

Amend page 3, section 3, line 59, omit "is a State agency", insert "has Statewide jurisdiction".

Amend page 5, section 7, line 2c, after "public", omit "of", and insert "at".

Amend page 5, section 7, line 5, omit "State or".

Amend page 5, section 7, line 6, omit "regulation", insert "State statute or rule of court".

Amend page 5, section 7, line 24, after "which", omit "the".

Amend page 5, section 7, line 25, omit "public body proposes to include", insert "are proposed for inclusion".

Amend page 5, section 7, line 26, after "ment", insert "including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body".

Amend page 6, section 7, line 33, after "officials,]", insert "the setting of banking rates".

Amend page 6, section 7, line 36, omit "The", insert "Any".

Amend page 6, section 7, line 42, after "party", insert ".".

Amend page 6, section 7, line 52, omit "Matters", insert "Any matters".

Amend page 7, section 8, lines 6-9, omit in their entirety.

Amend page 7, section 8, line 10, omit "likely to result, and", and insert in lieu thereof "b. Stating".

Amend page 7, section 8, line 12, after "public", omit "; or", insert ".".

Amend page 7, section 8, lines 13-14, omit in their entirety.

Amend page 7, section 9, line 5, after "be", insert "promptly".

Amend page 7, section 10, line 2c, omit "and shall be brought by any person".

Statement attached to Assembly  
Amendments to A1030 (Official Copy Reprint)  
2 adopted 2/27/75

Amend page 7, section 10, line 2H, after "section", insert "; and provided further that any action for which advance published notice of at least 48 hours is provided as required by law shall not be voidable solely for failure to conform with any notice required in this act".

Amend page 8, section 12, line 11, after "prosecutor", insert ", but the Attorney General or county prosecutor may refer the matter to the Public Advocate".

Amend page 9, section 18, after line 2, add the following statement:

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"STATEMENT

This bill requires that the public and the press have advance notice of and the opportunity to attend most meetings, including executive sessions, of public bodies, except where the public interest or individual rights would be jeopardized. The public's right to know the process by which governmental decisions are made and to witness that process in full detail may be obstructed by needlessly barring members of the public and the press from certain policy-making meetings of public bodies. If the public and the press cannot attend, they cannot learn of many positions that are considered or taken at such meetings by individual officials serving the public. Lack of this information can lessen public confidence in governmental decisions and impair the public's function of holding officials accountable in a democracy.

Section 3 determines the scope of the act by defining 'public body,' 'meeting' and 'public business.' To be covered, a public body must be organized by law and be collectively empowered as a multimember voting body to spend public funds or affect persons' rights. Therefore, informal or purely advisory bodies with no effective authority are not covered. Neither are groupings composed of a public official with subordinates or advisors, such as a mayor or the Governor meeting with department heads or cabinet members who are not empowered to act by vote. Specific exemptions are provided for the judiciary, parole bodies, the State Commission of Investigation and political party organizations.

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Public business, to be covered, need merely be related in some way to the public body's function or business.

Section 3 also defines the 'adequate notice' which is required for the public body's regular and special meetings. Normally, 48 hours' advance notice must be prominently posted, filed with a certain officer of the public body, and provided to two newspapers. Publication of legal notice is not required.

Section 4 prohibits meetings without adequate notice except upon a three-fourths vote of the members present where the only matters that may be discussed are matters of such urgency, that waiting to give notice would result in substantial harm to the public interest. Notice of the meeting must be posted and provided to two newspapers as soon as possible.

Section 5 requires a statement at every meeting confirming that adequate notice was provided or if it was not provided, presenting the reasons why it was not provided. Embarrassing statements required for avoidable emergencies are intended to discourage public officials from circumventing notice requirements by deliberately waiting until matters become emergencies.

Section 6 prohibits purposely circumventing the act by failing to invite one or more members of a public body so that a meeting of a majority of a public body would not qualify under section 3 b.

Section 7 provides that a public body may limit public participation in its meetings. In addition, specific topics which a public body may be permitted to discuss in private are listed. Private deliberation is permitted in cases where the public interest would otherwise be endangered or the personal privacy or guaranteed rights of individuals would be in danger of unwarranted invasion. Public bodies may meet in closed session when the matters under discussion (1) are considered confidential by Federal law, State statute or court rule, (2) would jeopardize receipt of Federal funds, (3) constitute an unwarranted invasion of individual privacy, (4) concern collective bargaining, (5) involves purchase, lease or investment using public funds, or concern the setting of banking rates, (6) concern investigations of violations or possible violations of the law, or technique of protecting the safety and property of the public, where disclosure of such techniques could impair such protection, (7) are covered by the attorney-client privilege, (8) concern personnel, or (9) involve certain proceedings which could result in a civil penalty, suspension, or loss of license.

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Section 12 provides \$100.00 penalties for a first offense of knowingly violating the preceding sections of the act and penalties of up to \$500.00 for subsequent offenses. Action for penalties may be brought in any county district court in the county where the alleged violation occurred, but only by appropriate officials in order to guard against harrassment of members of the public body.

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A1030

2d OCR Statement

10

**\*\*STATEMENT\*\***

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A1030 2A OCR Senate Reprint  
Statement

10

4 \***[of all meetings]**\* *\*described in subsection 3. d. of this act of any*  
5 *regular, special or rescheduled meeting\** of such body, and upon  
6 prepayment by such person of a reasonable sum, if any has been  
7 fixed by resolution of the public body to cover the costs of provid-  
8 ing such notice, the public body shall mail to such person written  
9 advance notice of all of its meetings within the time prescribed by  
10 subsection **\*[3. e.]\*** *\*3. d.\** herein, subject only to the exceptions  
11 set forth in subsection 4. b. herein. *\*Such resolution may provide*  
12 *that notice requested by the news media shall be mailed to such*  
13 *news media free of charge. All requests for notices made under this*  
14 *section shall terminate at midnight on December 31 of each year,*  
15 *but shall be subject to renewal upon a new request to the public*  
16 *body.\**

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2 graph, or part of this act or the application thereof to any person  
3 or circumstances, shall, for any reason, be adjudged by a court of  
4 competent jurisdiction to be invalid, such judgment shall not affect,  
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2 accomplish its purpose and the public policy of this State as set  
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1 **\*[14.]\*** *\*17.\** P. L. 1960, c. 173 (C. 10:4-1 to 10:4-5) is repealed.

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*Section 6 prohibits purposely circumventing the act by failing to invite one or more members of a public body so that a meeting of a majority of a public body would not qualify under section 3 b.*

*Section 7 provides that a public body may limit public participation in its meetings. In addition, specific topics which a public body may be permitted to discuss in private are listed. Private deliberation is permitted in cases where the public interest would otherwise be endangered or the personal privacy or guaranteed rights*

*of individuals would be in danger of unwarranted invasion. Public bodies may meet in closed session when the matters under discussion (1) are considered confidential by federal law, state statute or court rule, (2) would jeopardize receipt of federal funds, (3) constitute an unwarranted invasion of individual privacy, (4) concern collective bargaining, (5) involve purchase, lease or investment using public funds, or concern the setting of banking rates, (6) concern investigations of violations or possible violations of the law, or techniques of protecting the safety and property of the public, where disclosure of such techniques could impair such protection, (7) are covered by the attorney-client privilege, (8) concern personnel, or (9) involve certain proceedings which could result in a civil penalty, suspension, or loss of license.*

*Section 8 requires that whenever a public body seeks to meet in private, it must first pass a resolution at a public meeting stating its intention to do so. The resolution must also state the general nature of the matters to be discussed and approximately when, if ever, the matters discussed can be made public.*

*Section 9 requires public bodies to keep comprehensible minutes on the essentials of all meetings. Minutes are not intended to be verbatim or even to include every comment made. The requirement that minutes be comprehensible is intended to include printing or handwriting clear to the average citizen and is intended to exclude shorthand. Minutes must be promptly available to the public, except for material covering meetings or portions of meetings closed to the public.*

*Section 10 provides that actions taken by a public body at a meeting not held in accordance with this act are voidable in Superior Court upon legal action brought by any person, provided that the action is filed within 45 days after the action in question has been made public. A public body may correct an action which does not comply with this act by acting anew at any time at a public meeting that does comply with this act; however such corrective action does not eliminate any individual liability for penalties under section 12. Section 10 also provides that an action such as adoption of an ordinance where there has been advance published notice of at least 48 hours shall not be voidable solely for failure to conform with notice requirements of this act.*

*Section 11 grants any citizen the right to apply for injunctive orders or other remedies to guarantee compliance with this act.*

*Section 12 provides \$100.00 penalties for a first offense of knowingly violating the preceding sections of the act and penalties of up*

*to \$500.00 for subsequent offenses. Action for penalties may be brought in any county district court in the county where the alleged violation occurred, but only by appropriate officials in order to guard against harrassment of members of the public body.*

*Under section 13, a yearly schedule and any revised schedule of any regular meetings are to be posted and distributed similarly to the 48-hour advance notice of meetings. However, unavailable information such as meeting locations or information on special meetings need not be included in such annual notices or revisions as long as they are provided in the 48-hour notice.*

*Section 14 requires public bodies to mail meeting notices to any member of the public and the media requesting them and authorizes charging a small fee, from which the media may be exempt, to cover the costs of notifying such parties.\*\**

FROM THE OFFICE OF THE GOVERNOR

SEPTEMBER 21, 1975

FOR IMMEDIATE RELEASE

STATEMENT OF GOVERNOR BRENDAN BYRNE

ON SIGNING A-1030

Today I sign A-1030, a bill which will significantly alter the process of government in New Jersey. That process has long demanded alteration.

This new law, the Baer Open Meetings Law, will ensure that public business is conducted in public. It is based on the fundamental premise that government should be open to public scrutiny, and accountable to the public it serves.

Assemblyman Byron Baer, the chief sponsor, has done an impressive job in researching open meeting laws across the land and in drafting and redrafting a very complex piece of legislation for New Jersey.

The law will take effect 90 days from today. It will apply with limited exceptions to every government board or other body empowered to make collective decisions. It will require such bodies to open to the public all meetings held with the intent to discuss or act upon public business and to give adequate advance notice to the public that such meetings are to be held.

It will preclude executive sessions held to discuss issues before the public meetings at which votes are taken.

Many have opposed this legislation on the grounds that it will immobilize public bodies and prevent their performing public business efficiently and knowledgeably.

I held a full day's hearing to permit anyone to set forth his or her best arguments for or against this bill openly in a forum where scrutiny and rebuttal was possible. I have given the arguments presented at the hearing careful consideration.

On balance, I believe that the idea of open government deserves a chance in New Jersey. The public's business can and should be carried out in public. Public bodies exist for the public's convenience, not their own.



I have always pledged myself to that goal. This bill will be critical in achieving that objective. It establishes in the statute books the public's right to know how, why and by whom the public trust in public bodies is effectuated in governmental decisions.

To agree with the philosophy of this bill and to decide on balance that the arguments for it outweigh those against it is not to ignore the potential problems it creates. The Legislature should systematically monitor the experience of government at all levels in living with this new law and analyze the need for amendment on the basis of that experience.

Specifically, I point out several questions raised at the public hearing:

Can administrative bodies such as the Public Utilities Commission, which traditionally "meet" informally on a daily basis to decide matters which affect few persons or entities but which are vital to them, continue to carry out all their administrative tasks without undue delay?

Can public bodies which have traditionally held discussions with staff in confidence continue to receive complete and candid information from their staffs, continue to discuss embryonic ideas without prejudicing their development, and continue to plan for contingencies without themselves provoking the contingencies?

Can quasi-judicial bodies such as the PUC and municipal boards of adjustment function effectively without the opportunity for private conferences after the record is complete and before a vote is formally recorded and opinions signed?

Is it clear that committees of a body covered by the bill fall outside its scope? An amendment to the bill excised an earlier reference to committees, but the sponsor's response to a question on this raises doubts about the interpretation.

Will the spirit of this legislation be accepted? Can this law be enforced, or will public bodies resort to procedures which make the decision-making process less, rather than more open than it has been?

Will this law engender costly litigation based on frivolous grounds? If so, should there be a legal mechanism for curbing such frivolous challenges?

Is the legislation too cumbersome and the definitions imprecise? Will public bodies legitimately going into executive session have to reveal so much information as to vitiate the value of the executive session? Will the courts find it impossible to apply definitions of essential terms in particular contexts?

Will qualified citizens continue to volunteer to serve on public bodies given the increased time required by formal public meetings and the increased scrutiny given their remarks at those meetings?

Should the Legislature take steps to apply the same principles of open government to its own proceedings? Amendments to the original bill excluded legislative caucuses and committees from coverage under the law. As a result, this law will have no meaningful impact on the legislative branch. Yet many of its procedures are in need of reform. I would hope, for example, that the Legislature will adopt provisions to ensure a vote on every nomination for public office and abandon the often critical practice of senatorial courtesy.

No one can be sure of the answers to all these questions. They deserve careful review after this legislation has had a chance to work. I trust that the Legislature will make such a review next year with a readiness to enact such amendatory legislation as may prove desirable in order to assure that the Baer Open Meetings Law is truly workable in the public interest.

Acknowledging the existence of these unanswered questions should not detract from the importance or the basic wisdom of the legislation being signed into law today.

This law ushers in a new era of openness for government at every level in New Jersey and demonstrates clearly the determination of the Legislature and of this Administration that the public's business can and will be conducted in public.

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