

Amendment No. CA5

Conference Committee Amendment to Assembly Bill No. 70 Third Reprint	(BDR 19-421)
Proposed by: Conference Committee	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ERS/HAC



Date: 6/2/2019

A.B. No. 70—Revises provisions governing the Open Meeting Law.
(BDR 19-421)



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:

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

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

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

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

19 Existing law sets forth the circumstances when a public body is required to comply with
20 the Open Meeting Law. Under existing law, a public body may gather to receive information
21 from an attorney employed or retained by the public body regarding certain matters without
22 complying with the Open Meeting Law. (NRS 241.015)

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

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

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

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

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

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

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

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

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

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

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

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

17 **Sec. 2.5. A public body may delegate authority to the chair or the executive**
18 **director of the public body, or an equivalent position, to make any decision**

1 *regarding litigation concerning any action or proceeding in which the public*
2 *body or any member or employee of the public body is a party in an official*
3 *capacity or participates or intervenes in an official capacity.*

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

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

6 241.010 ~~[1-]~~ In enacting this chapter, the Legislature finds and declares that
7 all public bodies exist to aid in the conduct of the people's business. It is the intent
8 of the law that their actions be taken openly and that their deliberations be
9 conducted openly.

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

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

15 241.015 As used in this chapter, unless the context otherwise requires:

16 1. "Action" means:

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

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

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

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

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

30 3. "Meeting":

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

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

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

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

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

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

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

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

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

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

7 4. Except as otherwise provided in NRS 241.016, “public body” means:

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

18 (1) The Constitution of this State;

19 (2) Any statute of this State;

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

22 (4) The Nevada Administrative Code;

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

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

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

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

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

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

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

41 (c) A limited-purpose association that is created for a rural agricultural
42 residential common-interest community as defined in subsection 6 of NRS
43 116.1201 ~~;~~ ~~and~~

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

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

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

1 5. “Quorum” means a simple majority of the membership of a public body or
2 another proportion established by law.

3 6. *“Supporting material” means material that is provided to at least a*
4 *quorum of the members of a public body by a member of or staff to the public*
5 *body and that the members of the public body would reasonably rely on to*
6 *deliberate or take action on a matter contained in a published agenda. The term*
7 *includes, without limitation, written records, audio recordings, video recordings,*
8 *photographs and digital data.*

9 7. “Working day” means every day of the week except Saturday, Sunday and
10 any day declared to be a legal holiday pursuant to NRS 236.015.

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

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

13 241.020 1. Except as otherwise provided by specific statute, all meetings of
14 public bodies must be open and public, and all persons must be permitted to attend
15 any meeting of these public bodies. A meeting that is closed pursuant to a specific
16 statute may only be closed to the extent specified in the statute allowing the
17 meeting to be closed. All other portions of the meeting must be open and public,
18 and the public body must comply with all other provisions of this chapter to the
19 extent not specifically precluded by the specific statute. Public officers and
20 employees responsible for these meetings shall make reasonable efforts to assist
21 and accommodate persons with physical disabilities desiring to attend.

22 2. *If any portion of a meeting is open to the public, the public officers and*
23 *employees responsible for the meeting must make reasonable efforts to ensure the*
24 *facilities for the meeting are large enough to accommodate the anticipated*
25 *number of attendees. No violation of this chapter occurs if a member of the*
26 *public is not permitted to attend a public meeting because the facilities for the*
27 *meeting have reached maximum capacity if reasonable efforts were taken to*
28 *accommodate the anticipated number of attendees. Nothing in this subsection*
29 *requires a public body to incur any costs to secure a facility outside the control or*
30 *jurisdiction of the public body or to upgrade, improve or otherwise modify an*
31 *existing facility to accommodate the anticipated number of attendees.*

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

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

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

36 (c) The name and contact information for the person designated by the public
37 body from whom a member of the public may request the supporting material for
38 the meeting described in subsection ~~6.1~~ 7 and a list of the locations where the
39 supporting material is available to the public.

40 (d) An agenda consisting of:

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

43 (2) A list describing the items on which action may be taken and clearly
44 denoting that action may be taken on those items by placing the term “for possible
45 action” next to the appropriate item or, if the item is placed on the agenda pursuant
46 to NRS 241.0365, by placing the term “for possible corrective action” next to the
47 appropriate item.

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

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

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

3 ➤ The provisions of this subparagraph do not prohibit a public body from taking
4 comments by the general public in addition to what is required pursuant to sub-
5 subparagraph (I) or (II). Regardless of whether a public body takes comments from
6 the general public pursuant to sub-subparagraph (I) or (II), the public body must
7 allow the general public to comment on any matter that is not specifically included
8 on the agenda as an action item at some time before adjournment of the meeting.
9 No action may be taken upon a matter raised during a period devoted to comments
10 by the general public until the matter itself has been specifically included on an
11 agenda as an item upon which action may be taken pursuant to subparagraph (2).

12 (4) If any portion of the meeting will be closed to consider the character,
13 alleged misconduct or professional competence of a person, the name of the person
14 whose character, alleged misconduct or professional competence will be
15 considered.

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

18 (6) Notification that:

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

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

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

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

27 ~~§ 4.~~ 4. Minimum public notice is:

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

32 (b) Posting the notice on the official website of the State pursuant to NRS
33 232.2175 not later than 9 a.m. of the third working day before the meeting is to be
34 held, unless the public body is unable to do so because of technical problems
35 relating to the operation or maintenance of the official website of the State; and

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

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

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

46 ~~§ 5.~~ 5. For each of its meetings, a public body shall document in writing that
47 the public body complied with the minimum public notice required by paragraph
48 (a) of subsection ~~§ 4.~~ 4. The documentation must be prepared by every person who
49 posted a copy of the public notice and include, without limitation:

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

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

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

3 ~~5-] 6.~~ If a public body maintains a website on the Internet or its successor, the
4 public body shall post notice of each of its meetings on its website unless the public
5 body is unable to do so because of technical problems relating to the operation or
6 maintenance of its website. Notice posted pursuant to this subsection is
7 supplemental to and is not a substitute for the minimum public notice required
8 pursuant to subsection ~~3-] 4.~~ The inability of a public body to post notice of a
9 meeting pursuant to this subsection as a result of technical problems with its
10 website shall not be deemed to be a violation of the provisions of this chapter.

11 ~~6-] 7.~~ Upon any request, a public body shall provide, at no charge, at least
12 one copy of:

13 (a) An agenda for a public meeting;

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

16 (c) Subject to the provisions of subsection ~~7- or 8-] 8 or 9,~~ as applicable, any
17 other supporting material provided to the members of the public body for an item
18 on the agenda, except materials:

19 (1) Submitted to the public body pursuant to a nondisclosure or
20 confidentiality agreement which relates to proprietary information;

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

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

24 ↪ The public body shall make at least one copy of the documents described in
25 paragraphs (a), (b) and (c) available to the public at the meeting to which the
26 documents pertain. As used in this subsection, "proprietary information" has the
27 meaning ascribed to it in NRS 332.025.

28 ~~7-] 8.~~ Unless it must be made available at an earlier time pursuant to NRS
29 288.153, a copy of supporting material required to be provided upon request
30 pursuant to paragraph (c) of subsection ~~6-] 7~~ must be:

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

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

37 ↪ If the requester has agreed to receive the information and material set forth in
38 subsection ~~6-] 7~~ by electronic mail, the public body shall, if feasible, provide the
39 information and material by electronic mail.

40 ~~8-] 9.~~ Unless the supporting material must be posted at an earlier time
41 pursuant to NRS 288.153, the governing body of a county or city whose population
42 is 45,000 or more shall post the supporting material described in paragraph (c) of
43 subsection ~~6-] 7~~ to its website not later than the time the material is provided to the
44 members of the governing body or, if the supporting material is provided to the
45 members of the governing body at a meeting, not later than 24 hours after the
46 conclusion of the meeting. Such posting is supplemental to the right of the public to
47 request the supporting material pursuant to subsection ~~6-] 7.~~ The inability of the
48 governing body, as a result of technical problems with its website, to post
49 supporting material pursuant to this subsection shall not be deemed to be a violation
50 of the provisions of this chapter.

51 ~~9-] 10.~~ A public body may provide the public notice, information or
52 supporting material required by this section by electronic mail. Except as otherwise

1 provided in this subsection, if a public body makes such notice, information or
2 supporting material available by electronic mail, the public body shall inquire of a
3 person who requests the notice, information or supporting material if the person
4 will accept receipt by electronic mail. If a public body is required to post the public
5 notice, information or supporting material on its website pursuant to this section,
6 the public body shall inquire of a person who requests the notice, information or
7 supporting material if the person will accept by electronic mail a link to the posting
8 on the website when the documents are made available. The inability of a public
9 body, as a result of technical problems with its electronic mail system, to provide a
10 public notice, information or supporting material or a link to a website required by
11 this section to a person who has agreed to receive such notice, information,
12 supporting material or link by electronic mail shall not be deemed to be a violation
13 of the provisions of this chapter.

14 ~~HO-1~~ **11.** As used in this section, “emergency” means an unforeseen
15 circumstance which requires immediate action and includes, but is not limited to:

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

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

19 241.033 1. Except as otherwise provided in subsection 7, a public body
20 shall not hold a meeting to consider the character, alleged misconduct, professional
21 competence, or physical or mental health of any person or to consider an appeal by
22 a person of the results of an examination conducted by or on behalf of the public
23 body unless it has:

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

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

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

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

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

31 (2) Sent by certified mail to the last known address of that person at least
32 21 working days before the meeting.

33 (b) May, with respect to a meeting to consider the character, alleged
34 misconduct, professional competence, or physical or mental health of a person,
35 include an informational statement setting forth that the public body may, without
36 further notice, take administrative action against the person if the public body
37 determines that such administrative action is warranted after considering the
38 character, alleged misconduct, professional competence, or physical or mental
39 health of the person.

40 (c) Must include:

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

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

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

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

1 (a) Attend the closed meeting or that portion of the closed meeting during
2 which the character, alleged misconduct, professional competence, or physical or
3 mental health of the person is considered;

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

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

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

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

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

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

22 7. For the purposes of this section:

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

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

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

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

32 241.035 1. Each public body shall keep written minutes of each of its
33 meetings, including:

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

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

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

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

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

47 **➤** Unless good cause is shown, a public body shall approve the minutes of a
48 meeting within 45 days after the meeting or at the next meeting of the public body,
49 whichever occurs later.

50 2. Minutes of public meetings are public records. Minutes or an audio
51 recording of a meeting made in accordance with subsection 4 must be made
52 available for inspection by the public within 30 working days after adjournment of

1 the meeting. A copy of the minutes or audio recording must be made available to
2 a member of the public upon request at no charge. The minutes shall be deemed to
3 have permanent value and must be retained by the public body for at least 5 years.
4 Thereafter, the minutes may be transferred for archival preservation in accordance
5 with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to:

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

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

14 (c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when
15 the public body determines that the matters considered no longer require
16 confidentiality and the person who appealed the results of the examination has
17 consented to their disclosure, except that the public body shall remove from the
18 minutes any references to the real name of the person who appealed the results of
19 the examination. That person is entitled to a copy of the minutes upon request
20 whether or not they become public records.

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

25 4. Except as otherwise provided in subsection ~~{7.}~~ 8, a public body shall, for
26 each of its meetings, whether public or closed, record the meeting on audiotape or
27 another means of sound reproduction or cause the meeting to be transcribed by a
28 court reporter who is certified pursuant to chapter 656 of NRS. If a public body
29 makes an audio recording of a meeting or causes a meeting to be transcribed
30 pursuant to this subsection, the audio recording or transcript:

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

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

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

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

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

43 ~~—(b) Require a}~~

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

47 ~~{6.}~~ 7. Except as otherwise provided in subsection ~~{7.}~~ 8, any portion of a
48 public meeting which is closed must also be recorded or transcribed and the
49 recording or transcript must be retained and made available for inspection pursuant
50 to the provisions of subsection 2 relating to records of closed meetings. Any
51 recording or transcript made pursuant to this subsection must be made available to
52 the Attorney General upon request.

1 ~~7.7~~ 8. If a public body makes a good faith effort to comply with the
2 provisions of subsections 4 and ~~6.7~~ 7 but is prevented from doing so because of
3 factors beyond the public body's reasonable control, including, without limitation, a
4 power outage, a mechanical failure or other unforeseen event, such failure does not
5 constitute a violation of the provisions of this chapter.

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

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

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

9 241.039 1. A complaint that alleges a violation of this chapter may be filed
10 with the Office of the Attorney General. *The Office of the Attorney General shall*
11 *notify a public body identified in a complaint of the alleged violation not more*
12 *than 14 days after the complaint is filed.*

13 2. Except as otherwise provided in *subsection 3 and* NRS 241.0365, the
14 Attorney General ~~shall~~:

15 (a) *Shall* investigate and prosecute any violation of this chapter ~~if~~ *alleged in a*
16 *complaint filed not later than 120 days after the alleged violation with the Office*
17 *of the Attorney General.*

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

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

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

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

28 3. *The Attorney General is not required to investigate or prosecute any*
29 *alleged violation of this chapter if the Attorney General determines that ~~the~~*
30 *~~complaint was filed in bad faith or~~ the interests of the person who filed the*
31 *complaint are not significantly affected by the action of the public body that is*
32 *alleged to violate this chapter. For purposes of this subsection ~~if~~*

33 ~~— (a) A complaint is filed in bad faith if the person who filed the complaint~~
34 ~~has:~~

35 ~~— (1) Filed at least one other complaint against the same public body~~
36 ~~within the immediately preceding 12 months and no such complaint has resulted~~
37 ~~in a finding by the Attorney General that a violation of this chapter occurred; and~~

38 ~~— (2) Engaged in previous conduct to harass or annoy the public body, its~~
39 ~~members or its staff;~~

40 ~~— (b) The~~ *the* interests of the person who filed the complaint are not
41 significantly affected by the action of the public body that is alleged to violate this
42 chapter unless:

43 ~~— (1)~~ (a) *The person who filed the complaint would have standing to*
44 *challenge the action of the public body in a court of law; or*

45 ~~— (2)~~ (b) *The person who filed the complaint:*
46 ~~— (1)~~ (1) *Is a natural person and resides within the geographic area*
47 *over which the public body has jurisdiction; or*

48 ~~— (2)~~ (2) *Is any form of business, a social organization, a labor*
49 *organization or any other nongovernmental legal entity in this State that has a*
50 *mission or purpose to foster or protect democratic principles or promote*
51 *transparency in government.*

1 4. Except as otherwise provided in subsection ~~6~~ 7 and NRS 239.0115, all
2 documents and other information compiled as a result of an investigation conducted
3 pursuant to subsection 2 are confidential until the investigation is closed.

4 ~~4~~ 5. In any investigation conducted pursuant to subsection 2, the Attorney
5 General may issue subpoenas for the production of any relevant documents, records
6 or materials.

7 ~~5~~ 6. A person who willfully fails or refuses to comply with a subpoena
8 issued pursuant to this section is guilty of a misdemeanor.

9 ~~6~~ 7. The following are public records:

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

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

13 (c) Any document or information compiled as a result of an investigation
14 conducted pursuant to subsection 2 that may be requested pursuant to NRS
15 239.0107 from a governmental entity other than the Office of the Attorney General.

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

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

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

23 9. *A public body or, if authorized by the public body, an attorney employed*
24 *or retained by the public body, shall submit a response to the Attorney General*
25 *not later than 30 days after receipt of any finding that the public body violated*
26 *this chapter. If the Attorney General does not receive a response within 30 days*
27 *after receipt of the finding, it shall be deemed that the public body disagrees with*
28 *the finding of the Attorney General.*

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

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

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

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

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

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

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

50 4. ~~It~~ *Except as otherwise provided in subsection 6, in* addition to any
51 criminal penalty imposed pursuant to this section, each member of a public body
52 who attends a meeting of that public body where ~~action is taken in violation of~~

1 any ~~[provision]~~ violation of this chapter ~~[.]~~ occurs and who participates in such
2 ~~[action the meeting]~~ violation with knowledge of the violation, is subject to ~~[a civil~~
3 ~~penalty]~~ an administrative fine in an amount not to exceed :

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

5 ;

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

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

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

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

16 Sec. 13. (Deleted by amendment.)

17 Sec. 14. (Deleted by amendment.)

18 Sec. 15. (Deleted by amendment.)

19 Sec. 16. (Deleted by amendment.)

20 Sec. 17. (Deleted by amendment.)

21 Sec. 18. (Deleted by amendment.)

22 Sec. 19. (Deleted by amendment.)

23 Sec. 20. (Deleted by amendment.)

24 Sec. 21. (Deleted by amendment.)

25 Sec. 22. (Deleted by amendment.)

26 Sec. 23. (Deleted by amendment.)

27 Sec. 24. (Deleted by amendment.)

28 Sec. 25. (Deleted by amendment.)

29 Sec. 26. (Deleted by amendment.)

30 Sec. 27. (Deleted by amendment.)

31 Sec. 28. (Deleted by amendment.)

32 Sec. 29. (Deleted by amendment.)

33 Sec. 30. (Deleted by amendment.)

34 Sec. 31. (Deleted by amendment.)

35 Sec. 32. (Deleted by amendment.)

36 Sec. 33. (Deleted by amendment.)

37 Sec. 34. (Deleted by amendment.)

38 Sec. 35. (Deleted by amendment.)

39 Sec. 36. (Deleted by amendment.)

40 Sec. 37. (Deleted by amendment.)