



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
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Carson City, Nevada 89701-4717

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NOTICE OF PUBLIC MEETING

OPEN MEETING LAW TASK FORCE

DATE: May 7, 2014
TIME: 10:00 a.m.
LOCATIONS: Office of the Attorney General
Mock Courtroom
100 N. Carson Street
Carson City, NV 89701

VIDEOCONFERENCE TO:

Office of the Attorney General
Grant Sawyer Building
555 W. Washington Ave.
Room 4500
Las Vegas, NV 89101

AGENDA

1. Call to order and roll call of members of the 2015 Open Meeting Law Task Force.
2. Comments from the Public – please limit comments to 5 minutes.
3. Discussion, possible revision and correction of January 30, 2013 meeting minutes.
For possible action.
4. Opening remarks from the Chairman.

5. Discussion of whether an OML complaint is confidential or not. Is an OML complaint a public record that is subject to disclosure upon request? Is an OML complaint that names individuals confidential because of statutory or common law protections or is the complaint a public record only after investigation? Is an alleged violation of the OML different from any other alleged criminal or civil violations of law? Is a balancing test the appropriate test to resolve whether an OML complaint may be disclosed.
Paul Lipparelli and Traci Chase; Discussion;
6. Discussion of NRS chapter 239.010, public record exemptions. Should the list of exemptions (more than 400 separate exemptions) be condensed, amended to reduce the number, or is there another method to make the process more manageable? Issues for discussion include consideration of legislative creation of a public records accountability committee to review exemptions; consideration of statutorily defining public records using as a template the federal FOIA or various State FOIA's and consideration of legislative creation of a quasi-judicial tribunal responsible for enforcement of the public records law. **Discussion;**
7. Should the OML specify how a public body may approve minutes from a closed meeting without waiving privilege. **Scott Doyle. Discussion;**
8. Clarify the definition of "working day" in NRS 241.020(2). **Amanda Morgan; Discussion;**
9. Discussion of legislative intent of NRS 241.035(2) for possible legislative review or correction:

2. Minutes of public meetings are public records. Minutes or audiotape recordings of the meetings must be made available for inspection by the public, **and a copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge, within 30 working days after the adjournment of the meeting at which taken.** The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with [NRS 239.080](#) to [239.125](#), inclusive.

The issue is whether the emboldened language requires public bodies to provide minutes or an audio recording of any meeting or whether it applies only to public requests made within thirty working days of the meeting being requested.

10. Whether public/private entities including nonprofit corporations created by or privatized by the state or local government should be defined in the OML as a public body, and what criteria must be applied to determine whether such a body is subject to the OML? **Discussion;**
11. **Discussion** of whether a public body member's personal email or other social media communication which may have be used by a public body member to document a government transaction or activity, is subject to discovery during an OML investigation? Whether personal emails that discuss or document a government transaction or activity is a public record. If private devices (smart phones, tablets, laptops) are used to conduct public business with other members of a public body, should that communication be subject to subpoena and/or public records request under NRS 239? Should using a private device to conduct public business be a violation of the OML? Whether personal communication by members of a public body on government issued phones or computers, or on privately owned devices on which public business has been conducted should be subject to public records law disclosure and subpoena under the OML. Is NRS 241.039(2) sufficient authority to subpoena records of conduct of public business by personal email? **Discussion;**
12. Whether virtual meetings among members of a public body, when the public is invited to call in, are legal under the OML. There would be no physical address for a meeting location. Electronic Bulletin boards: are matters/information posted there considered supporting materials under OML. **Discussion;**
13. Consideration of revising NRS 241.025. As amended last session it applies only to designees appointed by a member of the public body to attend a meeting for him/her. Should the statute apply also to designees appointed by the public body? **Discussion;**
14. Consider clarification of NRS 241.020(8) (AB65, 2013). Clarify whether public bodies are under any legal requirement to mail supporting materials to anyone even if the public body publishes supporting materials online or makes them available to a requester electronically by request. **Discussion;**
15. Clarify the meaning of "constituent membership" in NRS 241.015(5); many advisory bodies suffer from chronic vacancies making the gathering of a quorum difficult. Does constituent membership mean the total number of available appointed seats? **Discussion;**
16. Should county deferred compensation committees be subject to the OML? NRS 287.440 **Discussion;**
17. Does merely faxing or emailing a public meeting notice and agenda to the location of posting constitute compliance with the statutory requirement in NRS 241.020(2)? **Discussion;**
18. Comments from the public – please limit comments to 5 minutes.

19. Adjourn. **For possible Action**

* Items may be taken out of order. Two or more items may be combined for consideration by the Task Force. Any item may be removed from the agenda at any time or discussion of an item may be delayed at any time.

Notices have been posted on the Nevada Office of the Attorney General's Web page at http://ag.nv.gov/About/Governmental_Affairs/OML_Task_Force/; Nevada Public Notice website <http://notice.nv.gov>; and, at the following locations:

- * Nevada State Library, Carson City; Office of the Attorney General, 100 North Stewart Street, Carson City, Nevada 89701-4285
- * Nevada State Capitol Building, 101 N. Carson St., Carson City, NV 89701;
- * Nevada State Legislative Building, 401 N. Carson St., Carson City, NV 89701;
- * Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas, NV 89101

on or before 9:00 a.m., May 1, 2014.

Print name

Signature

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Michele Smaltz, in writing, at: 100 N. Carson St., Carson City, NV 89701, or by calling 775.684.1195 no later than five working days prior to the meeting.

Supporting public material provided to Committee members for this meeting may be requested from Michele Smaltz, Office of the Attorney General, and is/will be available at the following location:

Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701

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