

**NRS CHAPTER 241  
DRAFT BILL DRAFT REQUEST**

**241.010. Legislative declaration and intent ~~[; requirements for meetings held by teleconference or videoconference]~~**

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

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

***241.- - Requirements for meetings held by teleconference or videoconference***

*1. Members of a public body may attend meetings of the public body by means of teleconference or videoconference. If one or more members of a public body attends a meeting of the public body by means of teleconference or videoconference, the chair of the public body, or his or her designee, shall ensure that all the members of the public body and the members of the public who are present at the meeting can hear or observe and participate in the meeting.*

*2. At the discretion of the chair of a public body, the public body may allow members of the public to attend meetings of the public body by means of teleconference or videoconference.*

**241.015. Definitions**

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

1. "Action" means:

- (a) A decision made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;
- (b) A commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;
- (c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present, whether in person or by means of electronic communication, during a meeting of the public body; or
- (d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

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

3. "Meeting":

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

- (1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or

to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

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

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

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

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

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

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

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both. *Any action arising out of the attorney-client gathering must be taken by the public body in a meeting noticed in accordance with this chapter.*

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

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

(1) The Constitution of this State;

(2) Any statute of this State;

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

(4) The Nevada Administrative Code;

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

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

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

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

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

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

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

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

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

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

*7. “Supporting materials” means materials provided to a quorum of members of a public body including, but not limited to, written records, audio and/or video recordings, photographs, and digital data, which would reasonably be relied upon by the public body in making a decision.*

#### **241.016. Application of chapter; exempt meetings and proceedings; specific exceptions; circumvention of chapter**

1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 284.3629, 286.150, 287.0415, 287.04345, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, and sections 25 and 27 of this act [Laws 2017, c. 11] and section 1 of this act [Laws 2017, c. 181] and section 11.5 of this act [Laws 2017, c. 302] and sections 3.5, 5.5 and 11 of this act [Laws 2017, c. 384] which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding, prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

### **241.017. Board of Regents to establish requirements for student governments**

The Board of Regents of the University of Nevada shall establish for the student governments within the Nevada System of Higher Education requirements equivalent to those of this chapter and shall provide for their enforcement.

### **241.020. Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions**

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

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

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice has been posted.
- (c) The name and contact information for the person designated by the public body from whom a member of the public may request the supporting material for the meeting described in subsection 6 and a list of the locations where the supporting material is available to the public.

(d) An agenda consisting of:

- (1) A clear and complete statement of the topics scheduled to be considered during the meeting.
- (2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term “for possible action” next to the appropriate item or, if the item is placed on the agenda pursuant to NRS 241.0365, by placing the term “for possible corrective action” next to the appropriate item.
- (3) Periods devoted to comments by the general public, if any, and discussion of those comments. Comments by the general public must be taken:

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

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

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

itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

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

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

(6) Notification that:

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

(II) The *Chair of the* public body may combine two or more agenda items for consideration; and

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

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

3. Minimum public notice is:

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

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

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

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

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

4. For each of its meetings, a public body shall document in writing that the public body complied with the minimum public notice required by paragraph (a) of subsection 3. The documentation must be prepared by every person who posted a copy of the public notice and include, without limitation:

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

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

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

5. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice

posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

6. Upon any request, a public body shall provide, at no charge, at least one copy of:

- (a) An agenda for a public meeting;
- (b) A proposed ordinance or regulation which will be discussed at the public meeting; and
- (c) Subject to the provisions of subsection 7 or 8, as applicable, any other supporting material provided to the members of the public body for an item on the agenda, except materials:
  - (1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;
  - (2) Pertaining to the closed portion of such a meeting of the public body; or
  - (3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

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

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

- (a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or
- (b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

If the requester has agreed to receive the information and material set forth in subsection 6 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

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

9. A public body may provide the public notice, information or supporting material required by this section by electronic mail. Except as otherwise provided in this subsection, if a public body makes such notice, information or supporting material available by electronic mail, the public body shall inquire of a person who requests the notice, information or supporting

material if the person will accept receipt by electronic mail. If a public body is required to post the public notice, information or supporting material on its website pursuant to this section, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept by electronic mail a link to the posting on the website when the documents are made available. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or supporting material or a link to a website required by this section to a person who has agreed to receive such notice, information, supporting material or link by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

10. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

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

#### **241.025. Designee of member of public body not allowed; exception**

1. Unless the designation is expressly authorized by the legal authority pursuant to which a public body was created:

- (a) The public body may not designate a person to attend a meeting of the public body in the place of a member of the public body; and
- (b) A member of the public body may not designate a person to attend a meeting of the public body in his or her place.

2. Any authorized designation must be made in writing or made on the record at a meeting of the public body.

3. A person who is designated to attend a meeting of a public body in the place of a member of the public body:

- (a) Shall be deemed to be a member of the public body for the purposes of determining a quorum at the meeting; and
- (b) Is entitled to exercise the same powers as the regular members of the public body at the meeting.

*4. The prohibitions set forth in this section do not preclude a member of a public body from assigning a representative to attend a meeting of the public body. A representative attending a meeting of a public body on behalf of a member of the public body shall not be included in determining a quorum of the meeting and may not vote upon any action items before the public body.*

#### **241.030. Exceptions to requirement for open and public meetings; waiver of closure of meeting by certain persons**

1. Except as otherwise provided in this section and NRS 241.031 and 241.033, a public body may hold a closed meeting to:

- (a) Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.
- (b) Prepare, revise, administer or grade examinations that are conducted by or on behalf of the public body.

(c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

2. A person whose character, alleged misconduct, professional competence, or physical or mental health will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:

(a) May be made at any time before or during the meeting; and

(b) Must be honored by the public body unless the consideration of the character, alleged misconduct, professional competence, or physical or mental health of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.

3. A public body may close a meeting pursuant to subsection 1 upon a motion which specifies:

(a) The nature of the business to be considered; and

(b) The statutory authority pursuant to which the public body is authorized to close the meeting.

4. This chapter does not:

(a) Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.

(b) Prevent the exclusion of witnesses from a public or closed meeting during the examination of another witness.

(c) Require that any meeting be closed to the public.

(d) Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.

#### **241.031. Meeting to consider character, misconduct or competence of elected member of public body or certain public officers**

1. Except as otherwise provided in subsection 2, a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of:

(a) An elected member of a public body; or

(b) A person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university, state college or community college within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and a city manager.

2. The prohibition set forth in subsection 1 does not apply if the consideration of the character, alleged misconduct or professional competence of the person does not pertain to his or her role as an elected member of a public body or an appointed public officer or other officer described in paragraph (b) of subsection 1, as applicable.

#### **241.033. Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with**

**representative and to present evidence; attendance of additional persons; copy of record**

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

- (a) Given written notice to that person of the time and place of the meeting; and
- (b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

- (a) Except as otherwise provided in subsection 3, must be:
  - (1) Delivered personally to that person at least 5 working days before the meeting; or
  - (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.
- (b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.
- (c) Must include:
  - (1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and
  - (2) A statement of the provisions of subsection 4, if applicable.

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

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

- (a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;
- (b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and
- (c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

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

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

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

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

7. For the purposes of this section:

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

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

**241.034. Meeting to consider administrative action against person or acquisition of real property by exercise of power of eminent domain: Written notice required; exception**

1. Except as otherwise provided in subsection 3:

(a) A public body shall not consider at a meeting whether to:

(1) Take administrative action against a person; or

(2) Acquire real property owned by a person by the exercise of the power of eminent domain,

unless the public body has given written notice to that person of the time and place of the meeting.

(b) The written notice required pursuant to paragraph (a) must be:

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

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

A public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider a matter set forth in paragraph (a) relating to that person at a meeting.

2. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.

3. The written notice otherwise required pursuant to this section is not required if:

(a) The public body provided written notice to the person pursuant to NRS 241.033 before holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of the person; and

(b) The written notice provided pursuant to NRS 241.033 included the informational statement described in paragraph (b) of subsection 2 of that section.

4. For the purposes of this section, real property shall be deemed to be owned only by the natural person or entity listed in the records of the county in which the real property is located to whom or which tax bills concerning the real property are sent.

**241.035. Public meetings: Minutes; aural and visual reproduction; transcripts**

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

- (a) The date, time and place of the meeting.
- (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.
- (c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.
- (d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.
- (e) Any other information which any member of the public body requests to be included or reflected in the minutes.

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

2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. 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. Minutes of meetings closed pursuant to:

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

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

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

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

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

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

- (b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and
- (c) Must be made available to the Attorney General upon request.

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

(a) P] prohibit a court reporter who is certified pursuant to chapter 656 of NRS from charging a fee to the public body for any services relating to the transcription of a meeting. [; or

~~(b) Require a-c]~~ A court reporter who transcribes a meeting *is under no obligation* to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter to a member of the public at no charge.

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

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

#### **241.0353. Absolute privilege of certain statements and testimony**

1. Any statement which is made by a member of a public body during the course of a public meeting is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

2. A witness who is testifying before a public body is absolutely privileged to publish defamatory matter as part of a public meeting, except that it is unlawful to misrepresent any fact knowingly when testifying before a public body.

#### **241.0355. Majority of all members of public body composed solely of elected officials required to take action by vote; abstention not affirmative vote; reduction of quorum**

1. A public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. For purposes of this subsection, a public body may not count an abstention as a vote in favor of an action.

2. In a county whose population is 45,000 or more, the provisions of subsection 5 of NRS 281A.420 do not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required pursuant to NRS 281A.420. The opinion of counsel

must be in writing and set forth with specificity the factual circumstances and analysis leading to that conclusion.

#### **241.036. Action taken in violation of chapter void**

The action of any public body taken in violation of any provision of this chapter is void.

#### **241.0365. Action taken by public body to correct violation of chapter; timeliness of corrective action; effect**

1. Except as otherwise provided in subsection 4, if a public body, after providing the notice described in subsection 2, takes action in conformity with this chapter to correct an alleged violation of this chapter within 30 days after the alleged violation *or notification by the Attorney General of the violation, whichever occurs later*, the Attorney General may decide not to commence prosecution of the alleged violation if the Attorney General determines foregoing prosecution would be in the best interests of the public.

2. Except as otherwise provided in subsection 4, before taking any action to correct an alleged violation of this chapter, the public body must include an item on the agenda posted for the meeting at which the public body intends to take the corrective action in conformity with this chapter. The inclusion of an item on the agenda for a meeting of a public body pursuant to this subsection is not an admission of wrongdoing for the purposes of civil action, criminal prosecution or injunctive relief.

3. For purposes of subsection 1, the period of limitations set forth in subsection 3 of NRS 241.037 by which the Attorney General may bring suit is tolled for ~~30~~ 60 days.

4. The provisions of this section do not prohibit a public body from taking action in conformity with this chapter to correct an alleged violation of the provisions of this chapter before the adjournment of the meeting at which the alleged violation occurs.

5. Any action taken by a public body to correct an alleged violation of this chapter by the public body is effective prospectively.

#### **241.037. Action by Attorney General or person denied right conferred by chapter; limitation on actions**

*1. Upon completion of its investigation, pursuant to NRS 241.039, the Office of the Attorney General shall issue a finding of non-violation or a findings of fact, conclusions of law, and order as to the allegations contained in a complaint pursuant to this chapter. If the Office of the Attorney General finds that a public body committed a violation under this chapter, it shall provide notice to the public body:*

*(a) Within 60 days of the alleged action in violation of this chapter, to void the action taken by the public body in violation of this chapter; or*

*(b) Within 120 days, to require the public body to take corrective action to comply with the requirements of this chapter.*

*A public body shall, within 14 days after the Office of the Attorney General issues its findings of a violation under this chapter, inform the Attorney General whether or not it will comply with the order to void an action or to take corrective action. A public body's failure to inform the Office of the Attorney General of its intent within 14 days shall be deemed consent to comply with the order.*

~~1.1~~ *If a public body rejects the findings of a violation by ~~1.1~~ the Office of the Attorney General, the Office of the Attorney General may sue in any court of competent jurisdiction to have an action taken by a public body declared void or for an injunction against any public body or person to require compliance with or prevent violations of the provisions of this chapter. The injunction:*

- (a) May be issued without proof of actual damage or other irreparable harm sustained by any person.
- (b) Does not relieve any person from criminal prosecution for the same violation.

2. Any person denied a right conferred by this chapter may sue in the district court of the district in which the public body ordinarily holds its meetings or in which the plaintiff resides. A suit may seek to have an action taken by the public body declared void, to require compliance with or prevent violations of this chapter or to determine the applicability of this chapter to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this subsection.

3. Except as otherwise provided in NRS 241.0365:

(a) Any suit brought against a public body pursuant to subsection 1 or 2 to require compliance with the provisions of this chapter must be commenced within 120 days after the *public body submits its response to the order of the Office of the Attorney General to take corrective action in compliance with this chapter or the action objected to was taken by that public body in violation of this chapter, whichever occurs later.*

(b) Any such suit brought to have an action declared void must be commenced within 60 days after the *public body issues its response to the order of the Office of the Attorney General that the action objected to was void or occurred in violation of this chapter was taken, whichever occurs later.*

*4. The Office of the Attorney General may issue a findings of fact, conclusions of law, and order regarding a violation under this chapter, and require acknowledgment of the violation pursuant to 241.0395, at any time when the violation does not involve voiding an action or requiring corrective action to comply with this chapter.*

#### **241.039. Complaints; enforcement by Attorney General; confidentiality of information compiled during investigation; subpoenas; penalty for failure or refusal to comply with subpoena; exception for public records**

1. A complaint that alleges a violation of this chapter may be filed with the Office of the Attorney General.

*2. A complaint that alleges a violation of this chapter must be filed with the Office of the Attorney General within 120 days of the alleged violation in order for an investigation to be*

*instituted. If the Office of the Attorney General determines that a public body may have committed a violation of this chapter in a secret manner, it may elect to institute an investigation into an alleged violation outside of the 120-day deadline.*

~~[2.]~~ 3. Except as otherwise provided in NRS 241.0365 *and subsection 2*, the Attorney General shall investigate and prosecute any violation of this chapter *that is alleged in a complaint*.

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

~~[4.]~~ 5. In any investigation conducted pursuant to subsection ~~[2.]~~ 3, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.

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

~~[6.]~~ 7. The following are public records:

(a) A complaint filed pursuant to subsection 1.

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

(c) Any document or information compiled as a result of an investigation conducted pursuant to subsection ~~[2.]~~ 3 that may be requested pursuant to NRS 239.0107 from a governmental entity other than the Office of the Attorney General.

#### **241.0395. Inclusion of item acknowledging finding by Attorney General of violation by public body on next agenda of meeting of public body; effect of inclusion**

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

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

#### **241.040. Criminal and civil penalties; members attending meeting in violation of chapter not accomplices**

1. Each member of a public body who attends a meeting of that public body where ~~action is taken in violation of~~ *the public body violates* any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

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

4. In addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where ~~action is taken in violation of~~ *the public body violates* this chapter, and who participates in ~~such action~~ *the meeting* with knowledge of the violation, ~~is~~ *may be* subject to an administrative fine ~~civil penalty~~:

(a) *For a first offense, in an amount not to exceed \$500;*

(b) *For a second offense, in an amount not to exceed \$1000;*

(c) *For a third and subsequent offense, in an amount not to exceed \$2500.*

*The administrative fine shall be paid within 60 days after the Office of the Attorney General issues its finding. A member of public body may ~~The Attorney General may recover the penalty~~ contest an administrative fine in a civil action ~~brought in the name of the State of Nevada~~ in any court of competent jurisdiction. Such an action must be commenced within 1 year after the date *on which the Office of the Attorney General issues its findings of a* ~~the action taken in~~ violation of this chapter.*

*5. If a public body commits a violation of this chapter based on incorrect legal advice by its counsel, and counsel acknowledges incorrectly advising the members of the public body, then the Office of the Attorney General shall not assess administrative fines pursuant to subsection 4 against the members of the public body. If the Office of the Attorney General determines that legal counsel for a public body knowingly misadvised the public body regarding the requirements of this chapter, it shall refer the matter to the State Bar of Nevada and/or the Ethics Commission.*