

OPEN MEETING LAW OVERVIEW OF REQUIREMENTS

The Nevada Open Meeting Law, Nevada Revised Statutes (NRS) Chapter 241, was initially passed in 1960 and have been revisited nearly every session since then. It declares legislative intent that all public bodies exist to aid in the conduct of the people's business. ***It is the intent of the law that the public body's actions be taken openly and that their deliberations be conducted openly.***

Definition

The Attorney General advises that a meeting is defined as "the gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power." ***This means that any time a majority of your board/council members gather together (officially or unofficially, by telephone, by fax, by text message, by emails, or in person), in a status other than a noticed public meeting, they CANNOT deliberate any issue over which they have advisory power.*** It is important that TAB/CAC members understand the impact of such an action. This does not preclude members from gathering together; it does require that they do not discuss town business.

Sanctions

NRS Chapter 241, Open Meeting Law, provides that ***each member of a public body (TAB/CAC) who attends a meeting of that body where action is taken in violation of any provision of the Open Meeting Law, with knowledge of the fact that the meeting is in violation, is guilty of a misdemeanor and, in addition is subject to a civil penalty not to exceed \$500. Likewise, wrongful exclusion of any person from a meeting is a misdemeanor punishable by up to six months in jail and/or a fine not to exceed \$1000.*** Any person denied a right conferred by the Open Meeting Law may bring a civil suit to have an action taken by the public body declared void; to require compliance with or prevent violations of the Open Meeting Law; or to determine the applicability of the law to discussions or decisions of the public body. If the plaintiff prevails, the court may award him reasonable attorney's fees and court costs.

TAB/CAC members should make a point to fully learn and understand the requirements and intent of the Nevada Open Meeting Law and the possible consequences to them personally of noncompliance.

Summary of Requirements

Essentially, the law requires the following:

1. ***Public Meeting*** - with certain exceptions, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these bodies.
2. ***Public Comment*** - all meetings of public bodies must have two opportunities for comment by the public. The first public comment section needs appear before any action is taken on

specific items that appear on the agenda. This can be handled by putting a public comment section at the beginning of the agenda or taking specific public comment following every action item that appears on the agenda. The second public comment section must be a general public comment section scheduled on the agenda prior to the Board's adjournment.

3. ***Minimum Notice*** - Written notice of all meetings must be given by 9 a.m. three working days before the meeting; such notice to include the date, time, location, and agenda of the meeting, except for a qualified emergency (as outlined below).

Minimum public notice consists of: (a) posting a copy of the meeting notice (agenda) at the principal office of the public body, or if there is no principal office then at the building in which the meeting is to be held, and at least three other separate, prominent places within the jurisdiction of the public body, no later than 9 a.m. three working days before the meeting; (b) providing a copy of the notice to any person who has requested notice of the meetings of the public body and delivered to the postal service used by the public body no later than 9 a.m. three working days before the meeting; (c) if the public body maintains a website on the Internet, the public body shall post notice of each of its meetings no later than 9 a.m. three working days before the meeting 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, and shall not be deemed to be in violation of the provisions; and (d) if the requester has agreed to receive the information and material by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

4. ***Qualified Emergency*** - An emergency is defined as "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." It is unlikely that town advisory boards and citizens advisory councils will ever use this exception, however, TABs/CACs should contact Administrative Services for verification if they believe an issue constitutes an emergency under the Open Meeting Law.
5. ***Minutes of Meetings*** - Each public body shall keep written minutes of each of its meetings, including: (a) the date, time, and place of the meeting; (b) which members of the body were present and which 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; and (d) any other information which any member of the body requests to be included or reflected in the minutes.
6. ***Public Records*** - Minutes of public meetings are public records. Minutes or any audiotape recordings of the meetings must be made available for inspection by the public within 30 working days after adjournment of the meeting at which taken. Written minutes shall be deemed to have permanent value and must be retained by the public body for at least five years. Audio recordings must be retained for at least one year.

The Open Meeting Law, NRS Chapter 241, clearly intends to further the objectives of open government in Nevada. The latest copy of the Nevada Open Meeting Law Manual, prepared by the Attorney General's Office, can be found under the References section of this manual.