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HOUSE BILL 579

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

W. C. "DUB" WILLIAMS

AN ACT

RELATING TO PUBLIC OFFICIALS; AMENDING SECTION 10-15-1 NMSA 1978
(BEING LAWS 1974, CHAPTER 91, SECTION 1, AS AMENDED) TO EXEMPT
FROM THE OPEN MEETINGS ACT PUBLIC HOSPITALS LEASED TO PRIVATE
MANAGERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-15-1 NMSA 1978 (being Laws 1974,
Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS--
EXEMPTION. --

A. In recognition of the fact that a representative
government is dependent upon an informed electorate, it is
declared to be public policy of this state that all persons are
entitled to the greatest possible information regarding the

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1 affairs of government and the official acts of those officers
2 and employees who represent them. The formation of public
3 policy or the conduct of business by vote shall not be conducted
4 in closed meeting. All meetings of any public body except the
5 legislature and the courts shall be public meetings, and all
6 persons so desiring shall be permitted to attend and listen to
7 the deliberations and proceedings. Reasonable efforts shall be
8 made to accommodate the use of audio and video recording
9 devices.

10 B. All meetings of a quorum of members of any board,
11 commission, administrative adjudicatory body or other
12 policymaking body of any state agency, any agency or authority
13 of any county, municipality, district or any political
14 subdivision, held for the purpose of formulating public policy,
15 including the development of personnel policy, rules,
16 regulations or ordinances, discussing public business or for the
17 purpose of taking any action within the authority of or the
18 delegated authority of any board, commission or other
19 policymaking body are declared to be public meetings open to the
20 public at all times, except as otherwise provided in the
21 constitution of New Mexico or the Open Meetings Act. No public
22 meeting once convened that is otherwise required to be open
23 pursuant to the Open Meetings Act shall be closed or dissolved
24 into small groups or committees for the purpose of permitting
25 the closing of the meeting.

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1 C. If otherwise allowed by law or rule of the public
2 body, a member of a public body may participate in a meeting of
3 the public body by means of a conference telephone or other
4 similar communications equipment when it is otherwise difficult
5 or impossible for the member to attend the meeting in person,
6 provided that each member participating by conference telephone
7 can be identified when speaking, all participants are able to
8 hear each other at the same time and members of the public
9 attending the meeting are able to hear any member of the public
10 body who speaks during the meeting.

11 D. Any meetings at which the discussion or adoption
12 of any proposed resolution, rule, regulation or formal action
13 occurs and at which a majority or quorum of the body is in
14 attendance, and any closed meetings, shall be held only after
15 reasonable notice to the public. The affected body shall
16 determine at least annually in a public meeting what notice for
17 a public meeting is reasonable when applied to that body. That
18 notice shall include broadcast stations licensed by the federal
19 communications commission and newspapers of general circulation
20 that have provided a written request for such notice.

21 E. A public body may recess and reconvene a meeting
22 to a day subsequent to that stated in the meeting notice if,
23 prior to recessing, the public body specifies the date, time and
24 place for continuation of the meeting, and, immediately
25 following the recessed meeting, posts notice of the date, time

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1 and place for the reconvened meeting on or near the door of the
2 place where the original meeting was held and in at least one
3 other location appropriate to provide public notice of the
4 continuation of the meeting. Only matters appearing on the
5 agenda of the original meeting may be discussed at the
6 reconvened meeting.

7 F. Meeting notices shall include an agenda
8 containing a list of specific items of business to be discussed
9 or transacted at the meeting or information on how the public
10 may obtain a copy of such an agenda. Except in the case of an
11 emergency, the agenda shall be available to the public at least
12 twenty-four hours prior to the meeting. Except for emergency
13 matters, a public body shall take action only on items appearing
14 on the agenda. For purposes of this subsection, an "emergency"
15 refers to unforeseen circumstances that, if not addressed
16 immediately by the public body, will likely result in injury or
17 damage to persons or property or substantial financial loss to
18 the public body.

19 G. The board, commission or other policymaking body
20 shall keep written minutes of all its meetings. The minutes
21 shall include at a minimum the date, time and place of the
22 meeting, the names of members in attendance and those absent,
23 the substance of the proposals considered and a record of any
24 decisions and votes taken that show how each member voted. All
25 minutes are open to public inspection. Draft minutes shall be

1 prepared within ten working days after the meeting and shall be
2 approved, amended or disapproved at the next meeting where a
3 quorum is present. Minutes shall not become official until
4 approved by the policymaking body.

5 H. The provisions of Subsections A, B and G of this
6 section do not apply to:

7 (1) meetings pertaining to issuance,
8 suspension, renewal or revocation of a license, except that a
9 hearing at which evidence is offered or rebutted shall be open.
10 All final actions on the issuance, suspension, renewal or
11 revocation of a license shall be taken at an open meeting;

12 (2) limited personnel matters; provided that
13 for purposes of the Open Meetings Act, "limited personnel
14 matters" means the discussion of hiring, promotion, demotion,
15 dismissal, assignment or resignation of or the investigation or
16 consideration of complaints or charges against any individual
17 public employee; provided further that this subsection is not to
18 be construed as to exempt final actions on personnel from being
19 taken at open public meetings, nor does it preclude an aggrieved
20 public employee from demanding a public hearing. Judicial
21 candidates interviewed by any commission shall have the right to
22 demand an open interview;

23 (3) deliberations by a public body in
24 connection with an administrative adjudicatory proceeding. For
25 purposes of this paragraph, an "administrative adjudicatory

1 proceeding" means a proceeding brought by or against a person
2 before a public body in which individual legal rights, duties or
3 privileges are required by law to be determined by the public
4 body after an opportunity for a trial-type hearing. Except as
5 otherwise provided in this section, the actual administrative
6 adjudicatory proceeding at which evidence is offered or rebutted
7 and any final action taken as a result of the proceeding shall
8 occur in an open meeting;

9 (4) the discussion of personally identifiable
10 information about any individual student, unless the student,
11 his parent or guardian requests otherwise;

12 (5) meetings for the discussion of bargaining
13 strategy preliminary to collective bargaining negotiations
14 between the policymaking body and a bargaining unit representing
15 the employees of that policymaking body and collective
16 bargaining sessions at which the policymaking body and the
17 representatives of the collective bargaining unit are present;

18 (6) that portion of meetings at which a
19 decision concerning purchases in an amount exceeding two
20 thousand five hundred dollars (\$2,500) that can be made only
21 from one source and that portion of meetings at which the
22 contents of competitive sealed proposals solicited pursuant to
23 the Procurement Code are discussed during the contract
24 negotiation process. The actual approval of purchase of the
25 item or final action regarding the selection of a contractor

1 shall be made in an open meeting;

2 (7) meetings subject to the attorney-client
3 privilege pertaining to threatened or pending litigation in
4 which the public body is or may become a participant;

5 (8) meetings for the discussion of the
6 purchase, acquisition or disposal of real property or water
7 rights by the public body; and

8 (9) those portions of meetings of committees or
9 boards of public hospitals that receive less than fifty percent
10 of their operating budget from direct public funds and
11 appropriations where strategic and long-range business plans are
12 discussed.

13 I. If any meeting is closed pursuant to the
14 exclusions contained in Subsection H of this section, the
15 closure:

16 (1) if made in an open meeting, shall be
17 approved by a majority vote of a quorum of the policymaking
18 body; the authority for the closure and the subject to be
19 discussed shall be stated with reasonable specificity in the
20 motion calling for the vote on a closed meeting; the vote shall
21 be taken in an open meeting; and the vote of each individual
22 member shall be recorded in the minutes. Only those subjects
23 announced or voted upon prior to closure by the policymaking
24 body may be discussed in a closed meeting; and

25 (2) if called for when the policymaking body is

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1 not in an open meeting, shall not be held until public notice,
2 appropriate under the circumstances, stating the specific
3 provision of the law authorizing the closed meeting and stating
4 with reasonable specificity the subject to be discussed is given
5 to the members and to the general public.

6 J. Following completion of any closed meeting, the
7 minutes of the open meeting that was closed or the minutes of
8 the next open meeting if the closed meeting was separately
9 scheduled shall state that the matters discussed in the closed
10 meeting were limited only to those specified in the motion for
11 closure or in the notice of the separate closed meeting. This
12 statement shall be approved by the public body under Subsection
13 G of this section as part of the minutes.

14 K. A corporation that leases and operates a public
15 hospital pursuant to a contract with the state, a county or a
16 municipality is exempt from the provisions of this section."

**State of New Mexico
House of Representatives**

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 13, 1997

Mr. Speaker:

Your VOTERS AND ELECTIONS COMMITTEE, to whom has
been referred

HOUSE BILL 579

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Edward C. Sandoval, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HVEC/HB 579

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Lujan, Nicely, Sanchez

Absent: None

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 24, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 579

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 8, line 16, after "section" insert "if the
meetings of the local community board charged by the corporation
with oversight of the hospital are open to public participation,
subject to the exceptions contained in an open meeting resolution
adopted by the local community board".

The roll call vote on Amendment #1 was 8 For 2 Against

Yes: 8

No: King, Stewart

Excused: Pederson, Rios, Sanchez

Absent: None

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FIRST SESSION, 1997

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Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 2 Against

Yes: 8

No: King, Stewart

Excused: Pederson, Rios, Sanchez

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

February 27, 1997

HOUSE FLOOR AMENDMENT number ___1___ to HOUSE BILL 579, as amended

Amendment sponsored by Representative Gary K. King

1. Strike House Judiciary Committee Amendment 1.

2. On page 8, line 16, after "section" insert "; provided that the hospital is subject to oversight by a local community hospital board and that board is subject to the provisions of this section".

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Gary K. King

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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 579, as amended

has had it under consideration and reports same with recommendation that
it DO PASS, and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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FORTY-THIRD LEGISLATURE
FIRST SESSION

HB 589

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Ingle, Vernon

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 20, 1997

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 579, as amended

has had it under consideration and reports same with recommendation that
it DO PASS.

Respectfully submitted,

Fernando R. Macias, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

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FORTY-THIRD LEGISLATURE
FIRST SESSION

HB 589

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Stockard, Tsosie, Vernon

Absent: None

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