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HOUSE BILL 101

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO OPEN MEETINGS; BROADENING THE OPEN MEETINGS  
EXCEPTION FOR COLLECTIVE BARGAINING MEETINGS.

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.--

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  
affairs of government and the official acts of those officers  
and employees who represent them. The formation of public  
policy or the conduct of business by vote shall not be

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1 conducted in closed meeting. All meetings of any public body  
2 except the legislature and the courts shall be public meetings,  
3 and all persons so desiring shall be permitted to attend and  
4 listen to the deliberations and proceedings. Reasonable  
5 efforts shall be made to accommodate the use of audio and video  
6 recording devices.

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

23 C. If otherwise allowed by law or rule of the  
24 public body, a member of a public body may participate in a  
25 meeting of the public body by means of a conference telephone

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

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

18 E. A public body may recess and reconvene a meeting  
19 to a day subsequent to that stated in the meeting notice if,  
20 prior to recessing, the public body specifies the date, time  
21 and place for continuation of the meeting and, immediately  
22 following the recessed meeting, posts notice of the date, time  
23 and place for the reconvened meeting on or near the door of the  
24 place where the original meeting was held and in at least one  
25 other location appropriate to provide public notice of the

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1 continuation of the meeting. Only matters appearing on the  
2 agenda of the original meeting may be discussed at the  
3 reconvened meeting.

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

16 G. The board, commission or other policymaking body  
17 shall keep written minutes of all its meetings. The minutes  
18 shall include at a minimum the date, time and place of the  
19 meeting, the names of members in attendance and those absent,  
20 the substance of the proposals considered and a record of any  
21 decisions and votes taken that show how each member voted. All  
22 minutes are open to public inspection. Draft minutes shall be  
23 prepared within ten working days after the meeting and shall be  
24 approved, amended or disapproved at the next meeting where a  
25 quorum is present. Minutes shall not become official until

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1 approved by the policymaking body.

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

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

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

20 (3) deliberations by a public body in  
21 connection with an administrative adjudicatory proceeding. For  
22 purposes of this paragraph, ~~[an]~~ "administrative adjudicatory  
23 proceeding" means a proceeding brought by or against a person  
24 before a public body in which individual legal rights, duties  
25 or privileges are required by law to be determined by the

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1 public body after an opportunity for a trial-type hearing.  
2 Except as otherwise provided in this section, the actual  
3 administrative adjudicatory proceeding at which evidence is  
4 offered or rebutted and any final action taken as a result of  
5 the proceeding shall occur in an open meeting;

6 (4) the discussion of personally identifiable  
7 information about any individual student, unless the student  
8 [~~his~~] or the student's parent or guardian requests otherwise;

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

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

25 (7) meetings subject to the attorney-client

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1 privilege pertaining to threatened or pending litigation in  
2 which the public body is or may become a participant;

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

6 (9) those portions of meetings of committees  
7 or boards of public hospitals where strategic and long-range  
8 business plans or trade secrets are discussed; and

9 (10) that portion of a meeting of the gaming  
10 control board dealing with information made confidential  
11 pursuant to the provisions of the Gaming Control Act.

12 I. If any meeting is closed pursuant to the  
13 exclusions contained in Subsection H of this section [~~the~~  
14 ~~closure~~]:

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

25 (2) if a closure is called for when the

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

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

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