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## Public Entities, Officers, and Employees; Open Meeting Laws

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# Public Entities, Officers, and Employees

## Public Entities, Officers, and Employees; open meeting laws

NEV. REV. STAT. §241.— (new); §241.040 (amended).

AB 378 (Committee on Government Affairs); 1983 STAT. Ch 408

Existing law expressly states that public bodies<sup>1</sup> exist to aid in the conduct of the people's business. The underlying intent of the law (hereinafter referred to as open meeting law)<sup>2</sup> is that actions and deliberations of public bodies be conducted openly.<sup>3</sup> Chapter 408 strengthens the enforcement of these open meeting laws.<sup>4</sup>

Under Chapter 408, actions taken by public bodies in violation of open meeting laws are void.<sup>5</sup> In addition, the Attorney General may seek an injunction against a public body to require compliance with or prevent the violation of open meeting law provisions.<sup>6</sup> Actual damages do not have to be proven to obtain the injunction,<sup>7</sup> nor is any person relieved from criminal prosecution of the same violation for which the injunction is granted.<sup>8</sup>

Existing law enables any person who is denied a right conferred by open meeting laws to commence a suit in the appropriate court<sup>9</sup> to

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1. NEV. REV. STAT. §241.015(2) (definition of public body); *see also* 1979 Op. Att'y Gen. No. 79-5 (Feb. 23, 1979) (the provisions of the open meeting law concerning public bodies are to be given a liberal interpretation).

2. NEV. REV. STAT. §241.010.

3. *Id.* Subject to certain exceptions, all meetings of public bodies must be open and public. *See id.* §241.030 (exceptions enumerated); *see also* Goldberg v. Eighth Judicial District Court, 93 Nev. 614, 615, 572 P.2d 521, 522 (1977) (declaring unconstitutional the exception that judicial meetings for the purpose of considering rules or issuing administrative orders will be subject to open meeting provisions); Cal. Tahoe Regional Planning Agency v. Sahara Tahoe Corp., 504 F.Supp. 753, 765 (D. Nev. 1980) (open meeting law provisions held inapplicable to the Compact agreement between California and Nevada); *see generally* Lower Colorado River Authority v. City of San Marcos, 523 S.W.2d 641 (1975); Olson v. Murphy, 428 F.Supp. 1057 (W.D. Pa. 1977) (discussing similar open meeting laws in Texas and Pennsylvania).

4. *See* 1983 Nev. Stat. c. 408, §§2,3,4 at 1012-13.

5. 1983 Nev. Stat. c. 408, §2, at 1012.

6. *Id.* c. 408, §3(1), at 1012.

7. *Id.* c. 408, §3(1)(a), at 1012.

8. *Id.* c. 408, §3(1)(b), at 1012.

9. 1983 Nev. Stat. c. 408, §3(2), at 1012-13 (incorporating 1977 Nev. Stat. c. 527, §5(5), at 1101)(amending NEV. REV. STAT. §241.040). The suit may be commenced in the district court of the district where the public body ordinarily holds its meetings, or in which the plaintiff resides. *Id.* *See also* Ybarra v. Nevada Board of State Prison Commissioners, 520 F.Supp. 1000, 1002 (D. Nev. 1981) (declaring that any remedy sought for a violation of the state open meeting law must be sought in the appropriate Nevada court).

force compliance with or to prevent the violation of those laws.<sup>10</sup> A person who sues under these provisions may also seek a determination of whether open meeting laws apply to discussions or decisions of the public body.<sup>11</sup> With the enactment of Chapter 408, a suit may also be brought to void actions taken by the public body in violation of open meeting laws.<sup>12</sup> Any suit brought either to void an action by the public body or to require compliance with the open meeting laws must be commenced within sixty days after the action was taken by the body.<sup>13</sup>

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10. 1983 Nev. Stat. c. 408, §3(2), at 1012-13 (incorporating 1977 Nev. Stat. c. 527, §5(5), at 1101)(amending NEV. REV. STAT. §241.040).

11. *Id.* (a successful plaintiff may recover reasonable attorney's fees and court costs). *Id.* c. 408, §3(2), at 1012-13 (incorporating 1977 Nev. Stat. c. 527, §5(6), at 1101) (amending NEV. REV. STAT. §241.040).

12. 1983 Nev. Stat. c. 408, §3(2), at 1012.

13. *Id.* c. 408, §3(3), at 1013.

## **Public Entities, Officers, Employees; county contracts— commissioners**

NEV. REV. STAT. §244.320 (amended).

AB 406 (Committee on Government Affairs); 1983 STAT. Ch 586

Prior to the enactment of Chapter 586, a board of county commissioners<sup>1</sup> could not enter into any contract, lease, franchise, exchange of property or other transaction [hereinafter referred to as contract] that extended beyond the terms of office held by those voting on the contract, unless a notice of intention<sup>2</sup> was adopted at a regular meeting.<sup>3</sup> Chapter 586 abolishes the requirement of a notice of intention<sup>4</sup> and provides that the board may enter into a contract extending beyond the terms of office held by the commissioners.<sup>5</sup> Chapter 586 provides, however, that the contract is binding only to the extent that money has been appropriated for the specific contract or a like item or service.<sup>6</sup>

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1. NEV. REV. STAT. §0.035 (definition of board of county commissioners).

2. 1977 NEV. STAT. c. 264, §1(2), at 463 (amending NEV. REV. STAT. §244.320) (contents of the notice of intention under prior law).

3. *Id.* c. 264, §1(1), at 463; *see id.* (allowed if the action were otherwise authorized by law).

4. *Compare* NEV. REV. STAT. §244.320 (amended by 1983 Nev. Stat. c. 586, §1, at 1881) *with* 1977 Nev. Stat. c. 264, §1, at 463 (amending Nev. Stat. §244.320).

5. *See* NEV. REV. STAT. §244.320(1) (amended by 1983 Nev. Stat. c. 586, §1, at 1881).

6. *See id.* c. 264, §1(1), at 1881. This provision applies only to contracts that extend beyond the term of office of any board member who is part of the quorum voting on the contract. *Id.*