
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 265

Session of
1979

INTRODUCED BY KNEPPER, J. L. WRIGHT, JR., COHEN, FISHER,
HOEFFEL, NOYE, D. R. WRIGHT, KOLTER, MILLER, REED, ZORD,
VROON, KERNICK, BURD, WILT, WAGNER, ZWIKL AND
SCIRICA, FEBRUARY 13, 1979

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 13, 1979

AN ACT

1 Amending the act of July 19, 1974 (P.L.486, No.175), entitled
2 "An act requiring public agencies to hold certain meetings
3 and hearings open to the public and providing penalties,"
4 further providing for open meetings of public agencies.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The act of July 19, 1974 (P.L.486, No.175),
8 entitled "An act requiring public agencies to hold certain
9 meetings and hearings open to the public and providing
10 penalties," is amended by adding sections to read:

11 Section 1. This act shall be known and may be cited as the
12 "Sunshine Act."

13 Section 1.1. The Declaration of Rights of the Constitution
14 of the Commonwealth of Pennsylvania declares that "All power is
15 inherent in the people and all free governments are founded on
16 their authority....". Yet it is impossible for the people to
17 exercise this power unless they are permitted the right to enter
18 the meetings of all governmental bodies in Pennsylvania, and all

1 agencies of the Commonwealth of Pennsylvania and its political
2 subdivisions, without exception, subject only to the limitations
3 imposed by this act.

4 The General Assembly finds and declares it the policy of the
5 Commonwealth that the meetings, deliberations, policy formations
6 and decision making of all governmental units, and all agencies
7 of State Government and its local subdivisions, are open to the
8 general public and the press and that closed meetings are
9 prohibited, subject only to the limitations imposed by this act.

10 Section 2. Section 1 of the act is renumbered and amended to
11 read:

12 Section [1.] 1.2 As used in this act:

13 "Agency" means the body and committees thereof of all the
14 following: the General Assembly, the Executive Branch, including
15 the Governor's Cabinet when meeting on official policy making
16 business, any [branch,] department, board, committee, including
17 conference committee of the General Assembly, authority or
18 commission of the Commonwealth of Pennsylvania, any political
19 subdivision of the Commonwealth, or any State, municipal,
20 township or school authority, school board, school governing
21 body, commission, the board of trustees of all State-aided
22 colleges and universities, the board of trustees of all State-
23 owned and State-related colleges and universities and all
24 community colleges, or similar organization created by or
25 pursuant to a statute which declares in substance that the
26 organization performs or has for its purpose the performance of
27 an essential governmental function. [Provided, That the term
28 "agency" shall include the General Assembly, or any State
29 department, board, authority or commission to include the
30 Governor's cabinet when meeting on official policy making

1 business.]

2 "Executive session" means an assemblage of an agency which is
3 not open to the public.

4 "Formal action" means the discussion, deliberation and taking
5 of any vote on any resolution, rule, order, motion, regulation
6 or ordinance or the setting of any official policy. [Meetings,
7 pre-trial conferences, hearings, and formal action by the
8 judiciary or judicial branch shall not be subject to the
9 provisions of this act.] The term shall include discussions and
10 deliberation of any matter on which a vote is anticipated or
11 scheduled and the discussions and deliberations leading to the
12 formulation or adoption of a policy. Formal action voting shall
13 be taken by an open and public ballot.

14 "Litigation" means any action before a court of law.

15 "Meeting" means a gathering or assemblage of an agency where
16 a quorum is present, if applicable, at which formal action is
17 anticipated or taken.

18 "Personnel and labor matters" means any situation involving a
19 labor contract, or negotiations between an individual and the
20 agency relative to continued employment.

21 "Public notice" means information given to the public
22 generally and to representatives of news media in particular.
23 When such public notice pertains to a meeting scheduled for the
24 future, it shall include the place, date and time of the meeting
25 and the proposed agenda, if possible.

26 Section 3. Sections 2 and 3 of the act are amended to read:

27 Section 2. The meetings or hearings of every agency at which
28 formal action is scheduled or taken are public meetings and
29 shall be open to the public at all times except as specified in
30 this act. No formal action shall be valid unless such formal

1 action is taken during a public meeting and the names and votes
2 of those voting are recorded in the minutes of the meeting. Such
3 records shall be available to the public pursuant to section 4.

4 Section 3. No public meeting of any agency shall be
5 adjourned, begun, recessed or interrupted in any way for the
6 purpose of an executive session except as hereinafter provided.
7 An executive session which shall be called only after the vote
8 of the members present is recorded on the question of whether or
9 not to hold an executive session may be held during the course
10 of a properly constituted public meeting upon notification to
11 the public present by the presiding officer that for a period
12 not to exceed thirty minutes the meeting will be in recess for
13 the purpose of:

14 (1) Considering dismissal or disciplining of, or hearing
15 complaints or charges brought against a public elected officer,
16 employee, or other public agent unless such person requests a
17 public hearing.

18 (2) Considering actions of the deliberating body with
19 respect to [labor negotiations] personnel and labor matters.

20 (3) Having confidential communications with the agency's
21 attorney, where such communications specifically concern
22 litigation in which the agency is a party or in which the agency
23 has a public concern.

24 (4) The agency upon adjournment of the executive session
25 shall list the matters discussed during the executive session.

26 Section 4. The act is amended by adding sections to read:

27 Section 7.1. (a) Nothing in this act shall prohibit an
28 agency from conducting an executive session for the purpose of
29 having confidential communications with its attorney, where such
30 communications specifically concern litigation in which the

1 agency is a party or in which the agency has a valid concern, or
2 where personnel or labor matters are involved.

3 (b) Public notice of such executive sessions shall be given
4 of the date, time, projected duration and place at least twenty-
5 four hours prior to the time of the executive session by mailing
6 a notice of the proposed meeting to a newspaper of general
7 circulation, as defined by 45 Pa.C.S. § 101 (relating to
8 definitions), which is published and circulated in the political
9 subdivision where the executive session will be held, or such
10 newspaper of general circulation equal to or greater than any
11 newspaper published in the said political subdivision and to
12 area radio and television stations and by posting a copy of the
13 notice prominently at the principal office of the agency holding
14 the executive session or at the public building in which the
15 executive session is to be held.

16 Section 7.2. The use of secret ballots or other such devices
17 to conceal the manner in which the votes were made is prohibited
18 and any such secret ballot is to be considered a violation of
19 this act subject to penalties provided in section 8.

20 Section 5. Section 8 of the act is amended to read:

21 Section 8. Any member of any agency who participates in a
22 meeting [or hearing knowing] that [it] is being held or
23 conducted in such a way to intentionally prevent an interested
24 party from attending or conducted with the intent and purpose of
25 violating this act is guilty of a summary offense and upon
26 conviction thereof shall be sentenced to pay a fine not
27 exceeding [one hundred dollars (\$100)] five hundred dollars
28 (\$500) plus costs of prosecution.

29 Section 6. This act shall take effect in 60 days.