

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 265

Session of
1979

INTRODUCED BY MESSRS. KNEPPER, J. L. WRIGHT, COHEN, FISHER,
HOEFFEL, NOYE, D. R. WRIGHT, KOLTER, MILLER, REED, ZORD,
VROON, MRS. KERNICK, MESSRS. BURD, WILT, WAGNER, ZWIKL,
FISCHER, MICHLOVIC, MILANOVICH, PETERSON, PRATT, SIEMINSKI,
E. H. SMITH, SPITZ, CIMINI, BROWN, PERZEL, CHESSE,
CALTAGIRONE AND SCIRICA, FEBRUARY 13, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 22, 1980

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

1 exercise this power unless they are permitted the right to enter
2 the meetings of all governmental bodies in Pennsylvania, and all
3 agencies of the Commonwealth of Pennsylvania and its political
4 subdivisions, without exception, subject only to the limitations
5 imposed by this act.

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

12 Section 2. Section 1 of the act is renumbered and amended to
13 read:

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

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

30 [Provided, That the term "agency" shall include the General

1 Assembly, or any State department, board, authority or
2 commission to include the Governor's cabinet when meeting on
3 official policy making business.]

4 "AGENDA" MEANS A LIST OF ITEMS TO BE DISCUSSED AT A MEETING <—
5 OR A HEARING.

6 "EMERGENCY EXECUTIVE SESSION" MEANS AN ASSEMBLAGE OF AN
7 AGENCY WHICH IS NOT OPEN TO THE PUBLIC AND WHICH THE AGENCY
8 DETERMINES TO BE URGENTLY NECESSARY IN ACCORDANCE WITH SECTION
9 3.

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

12 "Formal action" means the discussion, deliberation and taking
13 of any vote on any resolution, rule, order, motion, regulation
14 or ordinance or the setting of any official policy. †Meetings, <—
15 [pre-trial conferences,] hearings, and formal action by the <—
16 judiciary or judicial branch shall [not] be subject to the <—
17 provisions of this act.† The term shall include discussions and <—
18 deliberation of any matter on which a vote is anticipated or
19 scheduled and the discussions and deliberations leading to the
20 formulation or adoption of a policy. Formal action voting shall
21 be taken by an open and public ballot. THE TAKING OF A SECRET <—
22 BALLOT OR ANY OTHER ATTEMPT TO CONCEAL THE VOTE OF ANY MEMBER OR
23 MEMBERS OF THE AGENCY ENTITLED TO VOTE ON THE QUESTION, ON ANY
24 MATTER BEFORE THE AGENCY WHICH WAS ADOPTED, DEFEATED, TABLED OR
25 OTHERWISE DISPOSED OF OR ACTED UPON, SHALL BE PROHIBITED.
26 VIOLATIONS OF THIS PROVISION SHALL BE SUBJECT TO THE PENALTY
27 PROVISION IN SECTION 8.

28 "Litigation" means any PENDING, PROSPECTIVE OR THREATENED <—
29 action before a court of law OR IN WHICH THE AGENCY HAS A PUBLIC <—
30 CONCERN.

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

4 ~~"Personnel and labor matters" means any situation involving a~~ <—
5 ~~labor contract, or negotiations between an individual and the~~
6 ~~agency relative to continued employment~~ ISSUE ARISING OUT OF THE <—
7 NEGOTIATION OR OPERATION OF LABOR CONTRACT OR OUT OF THE
8 EMPLOYER-EMPLOYEE RELATIONSHIP OF AN INDIVIDUAL EMPLOYED BY THE
9 AGENCY BUT NOT COVERED BY A FORMAL LABOR CONTRACT OR
10 DISCIPLINARY ACTIONS OR DISCUSSIONS CONCERNING THE DISMISSAL OF
11 AN EMPLOYEE FOR CAUSE.

12 "Public notice" means information given to the public
13 generally and to representatives of news media in particular.
14 When such public notice pertains to a meeting scheduled for the
15 future, it shall include the place, date and time of the meeting
16 and the proposed agenda, if possible. TO THE EXTENT IT IS KNOWN <—
17 AT THE TIME OF GIVING NOTICE.

18 Section 3. ~~Sections 2 and 3~~ SECTION 2 of the act are IS <—
19 amended to read:

20 Section 2. The meetings or hearings of every agency at which
21 formal action is scheduled or taken are public meetings and
22 shall be open to the public at all times except as specified in
23 this act. No formal action shall be valid unless such formal
24 action is taken during a public meeting and the names and votes
25 of those voting are recorded in the minutes of the meeting. Such
26 records shall be available to the public pursuant to section 4.

27 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ: <—

28 SECTION 2.1. ALL MEETINGS OR HEARINGS OF EVERY AGENCY SHALL
29 HAVE AN AGENDA PRINTED IN A REASONABLE QUANTITY FOR THE PUBLIC.
30 IN THE CASE OF A MEETING OR HEARING WHERE IT IS KNOWN THAT THE

1 PROVISIONS OF THE ACT DO NOT REQUIRE THAT THE ENTIRE MEETING OR
2 HEARING BE OPEN TO THE PUBLIC TWO SEPARATE AGENDA SHALL BE
3 PRINTED, ONE FOR THE EXCLUSIVE USE OF THE AGENCY AND ONE FOR THE
4 GENERAL PUBLIC.

5 SECTION 2.2. AT ALL MEETINGS OR HEARINGS OF EVERY AGENCY
6 WHERE FORMAL ACTION VOTING IS TAKEN, PROVISION SHALL BE MADE AT
7 A SPECIFIED TIME ON THE AGENDA TO ALLOW THE PUBLIC A REASONABLE
8 TIME TO COMMENT.

9 SECTION 5. SECTION 3 OF THE ACT IS AMENDED TO READ:

10 Section 3. No public meeting of any agency shall be
11 adjourned, begun, recessed or interrupted in any way for the
12 purpose of an executive session except as hereinafter provided.
13 An EMERGENCY executive session which shall be called only after <—
14 the vote of the members present is recorded on the question of
15 whether or not to hold an EMERGENCY executive session AND <—
16 WHETHER SUCH SESSION IS URGENTLY NECESSARY, NOT TO EXCEED THIRTY
17 MINUTES IN DURATION may be held during the course of a properly
18 constituted public meeting [upon notification to the public <—
19 present by the presiding officer that for a period not to exceed
20 thirty minutes the meeting will be in recess for the purpose
21 of:] , BUT ONLY FOR THE PURPOSE OF: <—

22 (1) Considering dismissal or disciplining of, or hearing
23 complaints or charges brought against a public elected officer,
24 employee, or other public agent unless such person requests a
25 public hearing.

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

28 (3) Having confidential communications with the agency's
29 attorney, where such communications specifically concern
30 litigation. in which the agency is a party or in which the <—

1 ~~agency has a public concern.~~

2 SUCH AN EXECUTIVE SESSION SHALL BE LEGALLY CONVENED ONLY <—
3 FOLLOWING A PROPER MOTION PUBLICLY MADE AND ADOPTED BY THE
4 AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF AN AGENCY
5 PRESENT AND COMPETENT TO VOTE ON THE QUESTION.

6 ~~(4)~~ The agency upon adjournment of the executive session <—
7 shall list the matters ANNOUNCE PUBLICLY AND LIST IN GENERAL <—
8 TERMS IN THE MINUTES OF THE MEETING WHICH OF THE ABOVE SET FORTH
9 SUBJECT MATTERS WERE discussed during the executive session.

10 Section 4 6. The act is amended by adding ~~sections~~ A SECTION <—
11 to read:

12 Section 7.1. (a) Nothing in this act shall prohibit an
13 agency from conducting an executive session for the purpose of
14 having confidential communications with its attorney, where such
15 communications specifically concern litigation in which the <—
16 agency is a party or in which the agency has a valid concern, or
17 where personnel or labor matters are involved, OR FOR THE <—
18 PURPOSES ENUMERATED IN CLAUSES (1), (2) AND (3) OF SECTION 3.

19 (b) Public notice of ~~such~~ executive sessions shall be given <—
20 of the date, time, projected duration and place at least twenty-
21 four hours prior to the time of the executive session by mailing
22 a notice of the proposed meeting to a newspaper of general
23 circulation, as defined by 45 Pa.C.S. § 101 (relating to
24 definitions), which is published and circulated in the political
25 subdivision where the executive session will be held, or such
26 newspaper of general circulation equal to or greater than any
27 newspaper published in the said political subdivision and to
28 area radio and television stations and by posting a copy of the
29 notice prominently at the principal office of the agency holding
30 the executive session or at the public building in which the

1 executive session is to be held. THE PUBLICATION OF THE NOTICE <—
2 BY THE NEWSPAPER OF GENERAL CIRCULATION, THE RADIO STATION AND
3 THE TELEVISION STATION SHALL BE AT NO COST TO THE AGENCY.

4 ~~Section 7.2. The use of secret ballots or other such devices~~ <—
5 ~~to conceal the manner in which the votes were made is prohibited~~
6 ~~and any such secret ballot is to be considered a violation of~~
7 ~~this act subject to penalties provided in section 8.~~

8 Section 5 7. Section 8 of the act is amended to read: <—

9 Section 8. Any member of any agency who participates in a
10 meeting [or hearing knowing] that [it] is being held or
11 conducted in such a way [to] AS TO ILLEGALLY AND intentionally <—
12 prevent an interested party from attending or conducted with the
13 intent and purpose of violating this act is guilty of a summary
14 offense and upon conviction thereof shall be sentenced to pay a
15 fine not exceeding [one hundred dollars (\$100)] five hundred
16 dollars (\$500) plus costs of prosecution.

17 Section 6 8. This act shall take effect in 60 days. <—