

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, CHESS,
CALTAGIRONE AND SCIRICA, FEBRUARY 13, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 29, 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, authority or commission
20 of the Commonwealth of Pennsylvania, any political subdivision
21 of the Commonwealth, or any State, municipal, township or school
22 authority, school board, school governing body, commission, the
23 board of trustees of all State-aided colleges and universities,
24 the board of trustees of all State-owned and State-related
25 colleges and universities and all community colleges, or similar
26 organization created by or pursuant to a statute which declares
27 in substance that the organization performs or has for its
28 purpose the performance of an essential governmental function.
29 [Provided, That the term "agency" shall include the General
30 Assembly, or any State department, board, authority or

1 commission to include the Governor's cabinet when meeting on
2 official policy making business.]

3 "Agenda" means a list of items to be discussed at a meeting
4 or a hearing.

5 "Emergency executive session" means an assemblage of an
6 agency which is not open to the public and which the agency
7 determines to be urgently necessary in accordance with section
8 3.

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

11 "Formal action" means the discussion, deliberation and taking
12 of any vote on any resolution, rule, order, motion, regulation
13 or ordinance or the setting of any official policy. Meetings,
14 [pre-trial conferences,] hearings, and formal action by the
15 judiciary or judicial branch shall [not] be subject to the
16 provisions of this act. The term shall include discussions and
17 deliberation of any matter on which a vote is anticipated or
18 scheduled and the discussions and deliberations leading to the
19 formulation or adoption of a policy. Formal action voting shall
20 be taken by an open and public ballot. The taking of a secret
21 ballot or any other attempt to conceal the vote of any member or
22 members of the agency entitled to vote on the question, on any
23 matter before the agency which was adopted, defeated, tabled or
24 otherwise disposed of or acted upon, shall be prohibited.
25 Violations of this provision shall be subject to the penalty
26 provision in section 8.

27 "Litigation" means any pending, prospective or threatened
28 action before a court of law or in which the agency has a public
29 concern.

30 "Meeting" means a gathering or assemblage of an agency where

1 a quorum is present, if applicable, at which formal action is
2 anticipated or taken.

3 "Personnel and labor matters" means any issue arising out of
4 the negotiation or operation of labor contract or out of the
5 employer-employee relationship of an individual employed by the
6 agency but not covered by a formal labor contract or
7 disciplinary actions or discussions concerning the dismissal of
8 an employee for cause.

9 "Public notice" means information given to the public
10 generally and to representatives of news media in particular.
11 When such public notice pertains to a meeting scheduled for the
12 future, it shall include the place, date and time of the meeting
13 and the proposed agenda to the extent it is known at the time of
14 giving notice.

15 Section 3. Section 2 of the act is amended to read:

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

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

24 Section 2.1. All meetings or hearings of every agency shall
25 have an agenda printed in a reasonable quantity for the public.
26 In the case of a meeting or hearing where it is known that the
27 provisions of the act do not require that the entire meeting or
28 hearing be open to the public two separate agenda shall be
29 printed, one for the exclusive use of the agency and one for the
30 general public.

1 Section 2.2. At all meetings or hearings of every agency
2 where formal action voting is taken, provision shall be made at
3 a specified time on the agenda to allow the public a reasonable
4 time to comment.

5 Section 5. Section 3 of the act is amended to read:

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

18 (1) Considering dismissal or disciplining of, or hearing
19 complaints or charges brought against a public elected officer,
20 employee, or other public agent unless such person requests a
21 public hearing.

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

24 (3) Having confidential communications with the agency's
25 attorney, where such communications specifically concern
26 litigation.

27 Such an executive session shall be legally convened only
28 following a proper motion publicly made and adopted by the
29 affirmative vote of a majority of the members of an agency
30 present and competent to vote on the question.

1 The agency upon adjournment of the executive session shall
2 announce publicly and list in general terms in the minutes of
3 the meeting which of the above set forth subject matters were
4 discussed during the executive session.

5 Section 6. ~~Subsection~~ SUBSECTIONS (B) AND (g) of section 5 <—
6 of the act, SUBSECTION (G) added February 3, 1976 (P.L.24, <—
7 No.11), ~~is~~ ARE amended to read: <—

8 Section 5. * * *

9 (B) PUBLIC NOTICE OF THE SCHEDULE OF REGULAR MEETINGS SHALL <—
10 BE GIVEN ONCE FOR EACH CALENDAR OR FISCAL YEAR, AND SHALL SHOW
11 THE REGULAR DATES AND TIMES FOR MEETINGS AND THE PLACE AT WHICH
12 MEETINGS ARE HELD. PUBLIC NOTICE OF EACH SPECIAL MEETING OR
13 HEARING AND OF EACH RESCHEDULED REGULAR OR SPECIAL MEETING OR
14 HEARING SHALL BE GIVEN OF THE DATE, TIME AND PLACE OF EACH
15 MEETING AS THE CASE MAY BE. PUBLIC NOTICE SHALL BE GIVEN (I) BY
16 [PUBLISHING] COMMUNICATING THE [NOTICE ONCE IN A] REQUIRED
17 INFORMATION TO A NEWSPAPER OF GENERAL CIRCULATION, AS DEFINED BY
18 [THE ACT OF MAY 16, 1929 (P.L.1784, NO.587), KNOWN AS THE
19 "NEWSPAPER ADVERTISING ACT,"] 45 PA.C.S. PART I CH. 3 (RELATING
20 TO LEGAL ADVERTISING), WHICH IS PUBLISHED AND CIRCULATED IN THE
21 POLITICAL SUBDIVISION WHERE THE MEETING OR HEARING WILL BE HELD,
22 OR SUCH NEWSPAPER OF GENERAL CIRCULATION WHICH HAS A BONA FIDE
23 PAID CIRCULATION EQUAL TO OR GREATER THAN ANY NEWSPAPER
24 PUBLISHED IN THE SAID POLITICAL SUBDIVISION; AT LEAST TWENTY-
25 FOUR HOURS IN ADVANCE OF THE TIME OF THE CONVENING OF THE
26 MEETING; (II) AND BY POSTING A COPY OF THE NOTICE PROMINENTLY AT
27 THE PRINCIPAL OFFICE OF THE AGENCY HOLDING THE MEETING OR AT THE
28 PUBLIC BUILDING IN WHICH THE MEETING IS TO BE HELD.

29 * * *

30 (g) (1) Notwithstanding any provision of this section to

1 the contrary, in case of sessions of the General Assembly, all
2 meetings of legislative committees [to be held within the
3 Capitol complex] where bills are considered, and all legislative
4 hearings [to be held within the Capitol complex] where testimony
5 is taken, the requirement for public notice thereof shall be
6 complied with if within the time limits prescribed by this
7 section:

8 [(1)] (i) the Supervisor of the Newsroom of the State
9 Capitol Building in Harrisburg is supplied for distribution to
10 the members of the Pennsylvania Legislative Correspondents
11 Association with a minimum of thirty copies of the notice of the
12 date, time and place of each session, meeting or hearing:

13 Provided, That where the prescribed notice has been supplied
14 containing the specific number of days of a week scheduled for
15 legislative sessions of the House or Senate, but the House or
16 Senate thereafter determines to be in a greater number of
17 session days than that originally scheduled for such week, the
18 public notice requirement for such additional session days shall
19 be deemed complied with, if the Speaker of the House or
20 presiding officer of the Senate, as the case may be, makes
21 public announcement during open meeting of a regularly scheduled
22 session of the date, time and place of the additional session
23 day or days and notice is posted as prescribed by this section;
24 and

25 [(2)] (ii) there is a posting of the copy of such notice at
26 a public place within the main Capitol building designated by
27 the Chief Clerk and the Secretary of the Senate.

28 (2) Notwithstanding any provision to the contrary,
29 committees may be called into session in accordance with the
30 provisions of the rules of the House or the Senate and an

1 announcement by the Speaker of the House or the presiding
2 officer of the Senate: Provided, That such announcement is made
3 in open session of the House or the Senate.

4 (3) (i) In the case of legislative committee hearings or
5 meetings held outside the Capitol complex which are subject to
6 public notice requirements of this act, the requirement for
7 public notice shall be complied with:

8 (A) if within the time limits prescribed by this section,
9 notice is provided in accordance with the provisions of
10 paragraph (1); and

11 (B) a copy of the date, time and place of the hearing or
12 meeting is supplied to a newspaper of general circulation which
13 is published and circulated in the municipality where the
14 meeting or hearing will be held or in a newspaper of general
15 circulation which has a bona fide paid circulation equal to or
16 greater than any newspaper published in the municipality.

17 (ii) For purposes of this paragraph, the public notice to a
18 newspaper of general circulation shall be deemed to have been
19 supplied within the prescribed time if it is transmitted by
20 first class mail or certified mail and is postmarked by the
21 United States postal service no later than the two days before
22 the last publication date of the newspaper prior to the date of
23 the legislative hearing or meeting.

24 Section 7. The act is amended by adding ~~a section~~ SECTIONS ←
25 to read:

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

1 enumerated in clauses (1), (2) and (3) of section 3.

2 (b) Public notice of executive sessions shall be given of
3 the date, time, projected duration and place at least twenty-
4 four hours prior to the time of the executive session by mailing
5 a notice of the proposed meeting to a newspaper of general
6 circulation, as defined by 45 Pa.C.S. § 101 (relating to
7 definitions), which is published and circulated in the political
8 subdivision where the executive session will be held, or such
9 newspaper of general circulation equal to or greater than any
10 newspaper published in the said political subdivision and to
11 area radio and television stations and by posting a copy of the
12 notice prominently at the principal office of the agency holding
13 the executive session or at the public building in which the
14 executive session is to be held. ~~The publication of the notice~~ ←
15 ~~by the newspaper of general circulation, the radio station and~~
16 ~~the television station shall be at no cost to the agency.~~

17 SECTION 7.2. IN MAKING ANY RETRACTION OR CORRECTION OF ANY ←
18 NEWS ITEM OR STORY RELATING TO A MEETING OF ANY AGENCY UNDER
19 THIS ACT, OR TO AN UTTERANCE OF A PUBLIC OFFICIAL, THE NEWS
20 MEDIA AGENCY INVOLVED, INCLUDING BUT NOT BE LIMITED TO
21 NEWSPAPERS AND MAGAZINES, RADIO AND TELEVISION BROADCASTERS,
22 SHALL MAKE THE RETRACTION OR CORRECTION AT THE EQUIVALENT PLACE
23 IN THE PRINTED PERIODICAL OR BROADCAST TIME SLOT, AS THE CASE
24 MAY BE, AS THE NEWS ITEM OR STORY BEING RETRACTED OR CORRECTED
25 FIRST APPEARED OR WAS BROADCAST.

26 Section 8. Section 8 of the act is amended to read:

27 Section 8. Any member of any agency who participates in a
28 meeting [or hearing knowing] that [it] is being held or
29 conducted in such a way [to] as to illegally and intentionally
30 prevent an interested party from attending or conducted with the

1 intent and purpose of violating this act is guilty of a summary
2 offense and upon conviction thereof shall be sentenced to pay a
3 fine not exceeding [one hundred dollars (\$100)] five hundred
4 dollars (\$500) plus costs of prosecution.

5 Section 9. This act shall take effect in 60 days.