

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 265

Session of  
1979

INTRODUCED BY MESSRS. KNEPPER, J. L. WRIGHT, COHEN, FISHER,  
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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.