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February 22, 2006

City of Hoboken
Councilman Peter J. Cammarano
94 Washington Street
Hoboken, New Jersey 07030

RE: Senate Bill S.1219

(Amendments to the Open Public Meetings Act and Open Public Records Act)

Dear Councilman Cammarano:

It was a pleasure speaking with you earlier tonight about N.J. Senate Bill S1219 sponsored by Senator ROBERT J. MARTIN, District 26 (Morris and Passaic). As you know, S1219 revises current law concerning meetings of public bodies and access to government records.

I was impressed by your knowledge of the proposed legislation and your willingness to bring the matter before the Hoboken City Council. To attain that goal, I have attached the following materials to this communication;

- 1) A prepared RESOLUTION ready to be presented to the Hoboken City Council supporting the S.1219 and immediately enacting provisions of that law within the City of Hoboken.
- 2) A two page overview of the Key Points of S1219 and the amendments *to the Open Public Meetings Act (OPMA) and the Open Public Records Act (OPRA)*.
- 3) The proposed Law as introduced on January 30, 2006.

Once again, thank you for help and consideration in this matter. Please feel free to contact me either by email at edmecka@edmecka.com or by cell phone at (###-###-####).

Sincerely,

Edward J. Mecka

cc: file

Key Points of S1219

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Amends the Open Public Meetings Act (OPMA) and the Open Public Records Act (OPRA)

- 1. Use of Internet.** Requires a public body to either a) post meeting notices, agendas, minutes, resolutions, ordinances and an inventory of closed meeting minutes on its Internet site or b) release that information to a qualified volunteer who will publish it on the Internet at no cost to the body.
- 2. Meetings to be Audio Recorded.** Requires public bodies to record the audio of all its public and private meetings and to retain the recordings for six years.
- 3. Open Government Council.** Changes the name of the Government Records Council to the Open Government Council and empowers the Council to enforce both the OPRA and the OPMA.
- 4. Public Comment Period.** Requires public bodies to allow members of the public to comment at the beginning of all non-emergency meetings of all public bodies, not just municipal governing bodies, with each member of the public given at least five minutes to speak. In addition, members of the public will be given three minutes to comment before the body takes final action on any item.
- 5. Redefines “Public Body.”** Brings committees and subcommittees of public bodies and advisory committees within the scope of the OPMA and eliminates the exemption for party caucuses if all of the members of a body belong to the same political party.

Key Points of S1219

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6. **Redefines “Meeting”** Requires “virtual” meetings (e-mail, instant messaging, chat rooms, etc.) by public bodies to be advertised and opened to the public just like traditional, in-person meetings..
7. **Better Minutes.** Requires public bodies to keep “comprehensive” minutes of its meetings and to make the draft minutes and audio recordings publicly available within five business days.
8. **Executive Sessions.** Requires public bodies to a) specifically disclose the subjects to be discussed in executive session, b) to cite the specific legal basis for excluding the public and c) to review their closed session minutes and audio recordings at least quarterly to determine if any portions can be released to the public because secrecy is no longer justified.
9. **Attorney Fees.** Permits members of the public to recover attorney fees from a public body even if the matter complained of becomes moot (e.g. the requested record is released after the complaint’s filing).
10. **Penalties.** Establishes monetary penalties of up to \$5,000 for public officials, including attorneys, who “substantially violate” either the OPRA or OPMA and establishes special “presenters” to prosecute those violators.
11. **Personal liability.** Violators of the OPRA or OPMA are personally liable for fines incurred and cannot be reimbursed from the taxpayer money.
12. **Burden of Proof.** Places the burden of proving compliance with the OPRA and the OPMA upon the government agency.

City of Hoboken

Whereas, the City Council is committed to open and transparent government, and wishes to make the City of Hoboken a model of openness and transparency, and

Whereas, there is no legal impediment preventing the Council from imposing requirements upon itself, and upon the City's officers and "public bodies," that would make Hoboken City's government more open, accessible and transparent than what is required by the Open Public Meetings Act (OPMA) and the Open Public Records Act (OPRA).

Whereas, the Council has learned of the recent introduction of Senate Bill No. 1219 which would make several necessary and beneficial improvements to the Open Public Meetings Act (OPMA) and the Open Public Records Act (OPRA), and

Whereas, the Council fully supports S.1219, now therefore be it

Resolved, that the City Council of the City of Hoboken directs its City Administrator and each officer, employee, and "public body" within the City, under the supervision of the City Administrator, to abide §§ 1, 2, 3, 4, 5, 6, 9, 10, 15, and 16 of S.1219 as if those sections of the bill, in the form introduced, were presently enacted into law, and it is further

Resolved, that the City Administrator shall report to the Council at each subsequent Council meeting as to the progress that has been made in this regard with his final report being due before the end of 2006, and it is further

Resolved, that the City Clerk shall transmit a copy of this Resolution to the Governor and urge him to support S.1219 and work to enact it into law, and it is further

Resolved, that the City Clerk shall transmit copies of this Resolution to the City's three representatives in the New Jersey Legislature and ask our Senator to cosponsor S.1219 and our Assembly representatives to introduce identical legislation in their house, and it is further

Resolved, that the City Clerk shall transmit copies of this Resolution to the governing bodies of each municipality in Hudson County and to the Hudson County Board of Chosen Freeholders and urge them to share Hoboken City's commitment to open, accessible and transparent government.

SENATE, No. 1219

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

Sponsored by:

Senator ROBERT J. MARTIN
District 26 (Morris and Passaic)

SYNOPSIS

Revises law concerning meetings of public bodies and access to government records; makes appropriation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning meetings of public bodies and access to
2 government records, amending and supplementing various parts
3 of the statutory law, repealing sections 1 and 2 of P.L.2002, c.91,
4 and making an appropriation.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 2 of P. L. 1975, c.231 (C.10:4-7) is amended to read
10 as follows:

11 2. The Legislature finds and declares that the right of the public
12 to be present at all meetings of public bodies, and to witness in full
13 detail all phases of the deliberation, policy formulation, and
14 decision making of public bodies, is vital to the enhancement and
15 proper functioning of the democratic process; that secrecy in public
16 affairs undermines the faith of the public in government and the
17 public's effectiveness in fulfilling its role in a democratic society,
18 and hereby declares it to be the public policy of this State to insure
19 the right of its citizens to have adequate advance notice of and the
20 right to attend all meetings of public bodies at which any business
21 affecting the public is discussed or acted upon in any way except
22 only in those circumstances where otherwise the public interest
23 would be clearly endangered or the personal privacy or guaranteed
24 rights of individuals would be clearly in danger of unwarranted
25 invasion.

26 The Legislature further declares it to be the public policy of this
27 State to insure that the aforesaid rights are implemented pursuant to
28 the provisions of this act so that no confusion, misconstructions or
29 misinterpretations may thwart the purposes hereof.

30 The Legislature, therefore, declares that it is the understanding
31 and the intention of the Legislature that in order to be covered by
32 the provisions of this act a public body must be organized by law
33 and be collectively empowered as a multi-member voting body to
34 spend public funds or affect persons' rights, or be a committee or
35 subcommittee of a public body or a formally constituted advisory
36 body or subcommittee thereof; that, therefore, [informal or purely
37 advisory bodies with no effective authority are not covered, nor
38 are] the following are not covered: groupings composed of a public
39 official with subordinates or advisors, who are not empowered to
40 act by vote such as a mayor or the Governor meeting with
41 department heads or cabinet members, that specific exemptions are
42 provided for the Judiciary, parole bodies, the State Commission of
43 Investigation, the Apportionment Commission and political party
44 organization; that to be covered by the provisions of this act a
45 meeting must be open to all the public body's members, and the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 members present must intend to discuss or act on the public body's
2 business; and therefore, typical partisan caucus meetings, except
3 when all members of a public body are members of the same
4 political party, and chance encounters of members of public bodies
5 are neither covered by the provisions of this act, nor are they
6 intended to be so covered.
7 (cf: P. L.1981, c.176, s.1)

8
9 2. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read as
10 follows:

11 3. As used in this act:

12 a. "Public body" means a commission, authority, board, council,
13 committee or any other group of two or more persons organized
14 under the laws of this State, and collectively empowered as a voting
15 body to perform a public governmental function affecting the rights,
16 duties, obligations, privileges, benefits, or other legal relations of
17 any person, or collectively authorized to spend public funds
18 including the Legislature, but does not mean or include the judicial
19 branch of the government, any grand or petit jury, any parole board
20 or any agency or body acting in a parole capacity, the State
21 Commission of Investigation, the Apportionment Commission
22 established under Article IV, Section III, of the Constitution, or
23 any political party committee organized under Title 19 of the
24 Revised Statutes. The term "public body" shall include committees
25 and subcommittees of a public body and formally constituted
26 advisory bodies and subcommittees thereof.

27 b. "Meeting" means and includes any gathering whether
28 corporeal or by means of communication equipment, including use
29 of electronic mail, instant messaging or similar technologies, which
30 is attended by, or open to, all of the members of a public body, held
31 with the intent, on the part of the members of the body present, to
32 discuss or act as a unit upon the specific public business of that
33 body. Meeting does not mean or include any such gathering (1)
34 attended by less than an effective majority of the members of a
35 public body, or (2) attended by or open to all the members of three
36 or more similar public bodies at a convention or similar gathering.

37 c. "Public business" means and includes all matters which relate
38 in any way, directly or indirectly, to the performance of the public
39 body's functions or the conduct of its business.

40 d. "Adequate notice" means written advance notice of at least
41 **[48 hours]** three business days, giving the time, date, location and,
42 to the extent known, the agenda of any regular, special or
43 rescheduled meeting, which notice shall accurately state whether
44 formal action may or may not be taken and which shall be (1)
45 prominently posted on the public body's Internet site, if the public
46 body has established an Internet site, and in at least one public place
47 reserved for such or similar announcements, (2) mailed, telephoned,
48 telegrammed, or hand delivered to at least two newspapers which

1 newspapers shall be designated by the public body to receive such
2 notices because they have the greatest likelihood of informing the
3 public within the area of jurisdiction of the public body of such
4 meetings, one of which shall be the official newspaper, where any
5 such has been designated by the public body or if the public body
6 has failed to so designate, where any has been designated by the
7 governing body of the political subdivision whose geographic
8 boundaries are coextensive with that of the public body and (3)
9 filed with the clerk of the municipality when the public body's
10 geographic boundaries are coextensive with that of a single
11 municipality, with the clerk of the county when the public body's
12 geographic boundaries are coextensive with that of a single county,
13 and with the Secretary of State if the public body has Statewide
14 jurisdiction. For any other public body the filing shall be with the
15 clerk or chief administrative officer of such other public body and
16 each municipal or county clerk of each municipality or county
17 encompassed within the jurisdiction of such public body. Where
18 annual notice or revisions thereof in compliance with section 13 of
19 this act set forth the location of any meeting, no further notice shall
20 be required for such meeting except for notice on the public body's
21 Internet site, if the public body has established an Internet site.

22 (cf: P.L.1981, c.176, s.2)

23

24 3. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read as
25 follows:

26 4. a. Except as provided by subsection b. of this section, or for
27 any meeting limited only to consideration of items listed in section
28 7. b. no public body shall hold a meeting unless adequate notice
29 thereof has been provided to the public.

30 b. Upon the affirmative vote of three quarters of the members
31 present a public body may hold a meeting notwithstanding the
32 failure to provide adequate notice if:

33 (1) such meeting is required in order to deal with matters of such
34 urgency and importance that a delay for the purpose of providing
35 adequate notice would be likely to result in substantial harm to the
36 public interest; and

37 (2) the meeting is limited to discussion of and acting with respect
38 to such matters of urgency and importance; and

39 (3) notice of such meeting is provided as soon as possible
40 following the calling of such meeting by posting written notice of
41 the same in the public place described in section 3. d. above and on
42 the public body's Internet site, if the public body has established an
43 Internet site, and also by notifying the two newspapers described in
44 section 3. d. by telephone, telegram, or by delivering a written
45 notice of same to such newspapers; and

46 (4) either (a) the public body could not reasonably have foreseen
47 the need for such meeting at a time when adequate notice could
48 have been provided; or (b) although the public body could

1 reasonably have foreseen the need for such meeting at a time when
2 adequate notice could have been provided, it nevertheless failed to
3 do so.

4 (cf: P.L.1975, c.231, s.4)

5

6 4. Section 7 of P.L.1975, c.231 (C.10:4-12) is amended to read
7 as follows:

8 7. a. Except as provided by subsection b. of this section all
9 meetings of public bodies shall be open to the public at all times.
10 Nothing in this act shall be construed to limit the discretion of a
11 public body to permit, prohibit or regulate the active participation
12 of the public at any meeting, except that a **[municipal governing]**
13 public body shall be required to set aside a portion of every meeting
14 of the **[municipal governing]** public body, the length of the portion,
15 which shall not be less than five minutes per person wishing to
16 speak and, provided there are sufficient speakers, not less than one
17 hour in total, to be determined by the **[municipal governing]** public
18 body, for public comment on any governmental issue that a member
19 of the public feels may be of concern **[to the residents of the**
20 **municipality]**. When practical, a period for general public
21 comment shall be provided at the beginning of a meeting. The body
22 shall invite public comment before taking final action on a matter,
23 and such comments shall be limited to the matter at hand and the
24 duration shall be at the discretion of the public body. No public
25 body shall prohibit a member of the public from audiotaping or
26 videotaping a public meeting unless the public body can
27 demonstrate that such audiotaping or videotaping is unduly
28 disruptive.

29 b. A public body may exclude the public only from that portion
30 of a meeting at which the public body discusses:

31 (1) Any matter which, by express provision of Federal law or
32 State statute or rule of court shall be rendered confidential or
33 excluded from the provisions of subsection a. of this section.

34 (2) Any matter in which the release of information would impair
35 a right to receive funds from the Government of the United States.

36 (3) Any material the disclosure of which constitutes an
37 unwarranted invasion of individual privacy such as any records,
38 data, reports, recommendations, or other personal material of any
39 educational, training, social service, medical, health, custodial,
40 child protection, rehabilitation, legal defense, welfare, housing,
41 relocation, insurance and similar program or institution operated by
42 a public body pertaining to any specific individual admitted to or
43 served by such institution or program, including but not limited to
44 information relative to the individual's personal and family
45 circumstances, and any material pertaining to admission, discharge,
46 treatment, progress or condition of any individual, unless the
47 individual concerned (or, in the case of a minor or incompetent, his

1 guardian) shall request in writing that the same be disclosed
2 publicly.

3 (4) Any collective bargaining agreement, or the terms and
4 conditions which are proposed for inclusion in any collective
5 bargaining agreement, including the negotiation of the terms and
6 conditions thereof with employees or representatives of employees
7 of the public body.

8 (5) Any matter involving the purchase, lease or acquisition of
9 real property with public funds, the setting of banking rates or
10 investment of public funds, where it could adversely affect the
11 public interest if discussion of such matters were disclosed.

12 (6) Any tactics and techniques utilized in protecting the safety
13 and property of the public, provided that their disclosure could
14 impair such protection. Any investigations of violations or possible
15 violations of the law.

16 (7) Any pending or anticipated litigation or contract negotiation
17 other than in subsection b. (4) herein in which the public body is,
18 or may become a party.

19 Any matters falling within the attorney-client privilege, to the
20 extent that confidentiality is required in order for the attorney to
21 exercise his ethical duties as a lawyer.

22 (8) Any matter involving the employment, appointment,
23 termination of employment, terms and conditions of employment,
24 evaluation of the performance of, promotion or disciplining of any
25 specific prospective public officer or employee or current public
26 officer or employee employed or appointed by the public body,
27 unless all the individual employees or appointees whose rights
28 could be adversely affected request in writing that such matter or
29 matters be discussed at a public meeting.

30 (9) Any deliberations of a public body occurring after a public
31 hearing that may result in the imposition of a specific civil penalty
32 upon the responding party or the suspension or loss of a license or
33 permit belonging to the responding party as a result of an act or
34 omission for which the responding party bears responsibility.

35 (cf: P.L.2002, c.80, s.1)

36

37 5. Section 8 of P.L.1975, c.231 (C.10:4-13) is amended to read
38 as follows:

39 8. No public body shall exclude the public from any meeting to
40 discuss any matter described in subsection 7. b. until the public
41 body shall first adopt a resolution, at a meeting to which the public
42 shall be admitted:

43 a. Stating **[the general nature of]** as specifically as possible the
44 subject to be discussed and the specific basis for excluding the
45 public; and

1 b. Stating as precisely as possible, the time when and the
2 circumstances under which the discussion conducted in closed
3 session of the public body can be disclosed to the public.

4 (cf: P.L.1975, c.231, s.8)

5

6 6. Section 9 of P.L.1975, c.231 (C.10:4-14) is amended to read
7 as follows:

8 9. Each public body shall keep **[reasonably comprehensible]**
9 comprehensive minutes of all its meetings showing, at a minimum,
10 the time and place, the members present, the subjects considered,
11 the actions taken, the vote of each member, the identity of each
12 member of the public who spoke and a summary of what was said,
13 and any other information required to be shown in the minutes by
14 law**[, which]** . A public body shall cause to be recorded by sound
15 recording devices all meetings of that public body including those
16 from which the public is excluded and any emergency meeting and
17 shall maintain possession of the recordings for at least six years so
18 as to permit their use in litigation, to enforce the provisions of this
19 act, or for public access when there is no longer any basis for
20 excluding the public from the discussion of the matters. The
21 recordings and draft minutes, marked as such, shall be [promptly]
22 made available to the public within five business days of a meeting
23 to the extent that making such matters public shall not be
24 inconsistent with section 7 of this act. A public body that incurs an
25 increase in costs as a result of the requirement that meetings shall
26 be sound recorded may apply to the Open Government Council for
27 reimbursement from the funds appropriated pursuant to section 17
28 of P.L. , c. (C.) (now pending before the Legislature as this
29 bill).

30 (cf: P.L.1975, c.231, s.9)

31

32 7. Section 10 of P.L. 1975, c.231 (C.10:4-15) is amended to read
33 as follows:

34 10. a. Any action taken by a public body at a meeting which
35 does not conform with the provisions of this act shall be voidable in
36 a proceeding in lieu of prerogative writ in the Superior Court, which
37 proceeding may be brought by any person within 45 days after the
38 action sought to be voided has been made public; provided,
39 however, that a public body may take corrective or remedial action
40 by acting de novo at a public meeting held in conformity with this
41 act and other applicable law regarding any action which may
42 otherwise be voidable pursuant to this section; and provided further
43 that any action for which advance published notice of at least 48
44 hours is provided as required by law shall not be voidable solely for
45 failure to conform with any notice required in this act. No action
46 under this section shall be subject to dismissal on grounds that the
47 matters in question no longer present a case or controversy.

1 b. Any party, including any member of the public, may institute
2 a proceeding in lieu of prerogative writ in the Superior Court to
3 challenge any action taken by a public body on the grounds that
4 such action is void for the reasons stated in subsection a. of this
5 section, and if the court shall find that the action was taken at a
6 meeting which does not conform to the provisions of this act, the
7 court shall declare such action void. Any party, other than a public
8 body, who prevails in an action brought pursuant to this section, or
9 whose complaint is found to have been instrumental in bringing
10 about compliance, shall be awarded the amount of reasonable
11 attorneys fees incurred in bringing the action. The cost of any
12 attorneys fee awarded by the court shall be paid by the public body.

13 c. The Open Government Council shall not have authority to
14 void an action of a public body pursuant to this act.
15 (cf: P.L.1975, c.231, s.10)

16
17 8. Section 11 of P.L.1975, c.231 (C.10:4-16) is amended to read
18 as follows:

19 11. Any person, including a member of the public, may apply to
20 the Superior Court or the Open Government Council for injunctive
21 orders or other remedies to insure compliance with the provisions of
22 this act, and the court or council shall issue such orders and provide
23 such remedies as shall be necessary to insure compliance with the
24 provisions of this act. Any party, other than a public body, who
25 prevails in an action brought pursuant to this section shall be
26 awarded the amount of reasonable attorneys fees incurred in
27 bringing the action. The cost of any attorneys fee awarded shall be
28 paid by the public body.

29 (cf: P.L.1975, c.231, s.11)

30
31 9. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to read
32 as follows:

33 12. **【Any person who knowingly violates any of the foregoing**
34 **sections of this act shall be fined \$100.00 for the first offense and**
35 **no less than \$100.00 nor more than \$500.00 for any subsequent**
36 **offense, recoverable by the State by a summary proceeding under**
37 **"the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The**
38 **Superior Court shall have jurisdiction to enforce said penalty upon**
39 **complaint of the Attorney General or the county prosecutor.】**
40 Whenever a member of a public body believes that a meeting of
41 such body is being held in violation of the provisions of this act, he
42 shall immediately state this at the meeting together with specific
43 reasons for his belief which shall be recorded in the minutes of that
44 meeting, and, if the meeting is one from which the public is
45 excluded, the member's statement and reasons shall be announced at
46 and recorded in the minutes of the next meeting of the public body
47 at which the public is not excluded. Whenever such a member's
48 objections to the holding of such meeting are overruled by the

1 majority of those present, such a member may continue to
2 participate at such meeting without penalty provided he has
3 complied with the duties imposed upon him by this section.

4 Any member, officer, attorney or employee of a public body who
5 violates P.L.1975, c.231 (C.10:4-6 et seq.) shall be subject to a civil
6 penalty of \$1,000 for an initial violation, \$2,500 for a second
7 violation, and \$5,000 for a third violation. This penalty shall be
8 collected and enforced in proceedings in accordance with the
9 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
10 et seq.), and the rules of court governing actions for the collection
11 of civil penalties. The Superior Court shall have jurisdiction of
12 proceedings for the collection and enforcement of the penalty
13 imposed by this section. Any penalty imposed shall be borne by the
14 offender personally and shall not be paid out of public funds.

15 Appropriate disciplinary proceedings may be initiated against a
16 member, public officer, attorney, employee or custodian against
17 whom a penalty has been imposed.

18 (cf: P.L.1994, c.58, s.41)

19

20 10. Section 13 of P.L.1975, c.231 (C.10:4-18) is amended to
21 read as follows:

22 13. At least once each year, within 7 days following the annual
23 organization or reorganization meeting of a public body, or if there
24 be no such organization or reorganization meeting in the year, then
25 by not later than January 10 of such year, every public body shall
26 post and maintain posted throughout the year on the public body's
27 Internet site, if the public body has established an Internet site, and
28 in the place reserved for such or similar announcements in the
29 place described in subsection 3. d. (1), mail to the newspapers
30 described in subsection 3. d. (2), submit to the persons described in
31 subsection 3. d. (3), for the purpose of public inspection a schedule
32 of the regular meetings of the public body to be held during the
33 succeeding year. Such schedule shall contain the location of each
34 meeting to the extent it is known, and the time and date of each
35 meeting. In the event that such schedule is thereafter revised, the
36 public body, within 7 days following such revision, shall post, mail
37 and submit such revision in the manner described above.

38 (cf: P.L.1975, c.231, s.13)

39

40 11. Section 14 of P.L.1975, c.231 (C.10:4-19) is amended to
41 read as follows:

42 14. Any person may request that a public body mail to him
43 copies of any regular meeting schedule or revision described in
44 section 13 of this act and any advance written notice described in
45 subsection 3. d. of this act of any regular, special or rescheduled
46 meeting of such body, and upon prepayment by such person of a
47 reasonable sum, if any has been fixed by resolution of the public
48 body to cover the costs of **[providing]** transmitting such notice, the

1 public body shall mail to such person written advance notice of all
2 of its meetings within the time prescribed by subsection 3. d. herein,
3 subject only to the exceptions set forth in subsection 4. b. herein.
4 Such resolution may provide that notice requested by the news
5 media shall be mailed to such news media free of charge. All
6 requests for notices made under this section shall terminate at
7 midnight on December 31 of each year, but shall be subject to
8 renewal upon a new request to the public body.

9 (cf: P.L.1975, c.231, s.14)

10

11 12. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read
12 as follows:

13 7. A person who is denied access to a government record by the
14 custodian of the record or who believes that a public body has
15 violated the Open Public Meetings Act, at the option of the
16 **【requestor】 complainant**, may:

17 institute a proceeding to challenge the custodian's decision or
18 public body's action by filing an action in Superior Court which
19 shall be heard in the vicinage where it is filed by a Superior Court
20 Judge who has been designated to hear such cases because of that
21 judge's knowledge and expertise in matters relating to access to
22 government records or the Open Public Meetings Act; or

23 in lieu of filing an action in Superior Court, file a complaint with
24 the **【Government Records】 Open Government Council** established
25 pursuant to section 8 of P.L.2001, c.404 (C.47:1A-7).

26 The right to institute any proceeding under this section shall be
27 solely that of the **【requestor】 complainant**. Any such proceeding
28 shall proceed in a summary or expedited manner. The public agency
29 shall have the burden of proving that the denial of access is
30 authorized by law and the public body shall have the burden of
31 proving compliance with the Open Public Meetings Act. If it is
32 determined that access has been improperly denied or that the Open
33 Public Meetings Act was violated, the court or agency head shall
34 order that access be allowed or order compliance with the Open
35 Public Meetings Act. A **【requestor】 complainant** who prevails in
36 any proceeding shall be entitled to a reasonable attorney's fee.

37 (cf: P.L.2001, c.404, s.7)

38

39 13. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read
40 as follows:

41 8. a. There is established in the Department of Community
42 Affairs **【a Government Records】 an Open Government Council**.
43 The council shall consist of the Commissioner of Community
44 Affairs or the commissioner's designee, the Commissioner of
45 Education or the commissioner's designee, and three public
46 members appointed by the Governor, with the advice and consent of
47 the Senate, not more than two of whom shall be of the same
48 political party. The three public members shall serve during the

1 term of the Governor making the appointment and until the
2 appointment of a successor. A public member shall not hold any
3 other State or local elected or appointed office or employment while
4 serving as a member of the council. A public member shall not
5 receive a salary for service on the council but shall be reimbursed
6 for reasonable and necessary expenses associated with serving on
7 the council and may receive such per diem payment as may be
8 provided in the annual appropriations act. A member may be
9 removed by the Governor for cause. Vacancies among the public
10 members shall be filled in the same manner in which the original
11 appointment was made. The members of the council shall choose
12 one of the public members to serve as the council's chair. The
13 council may employ an executive director and such professional
14 and clerical staff as it deems necessary and may call upon the
15 Department of Community Affairs for such assistance as it deems
16 necessary and may be available to it.

17 b. The **Government Records** Open Government Council shall:
18 establish an informal mediation program to facilitate the
19 resolution of disputes regarding access to government records and
20 compliance with the Open Public Meetings Act, P.L.1975, c.231
21 (C.10:4-6 et seq.);

22 receive, hear, review and adjudicate a complaint filed by any
23 person concerning a denial of access to a government record by a
24 records custodian or the failure of a public body to comply with the
25 Open Public Meetings Act;

26 issue advisory opinions, on its own initiative, as to whether a
27 particular type of record is a government record which is accessible
28 to the public or as to the duties of public bodies regarding the Open
29 Public Meetings Act;

30 prepare guidelines and an informational pamphlet for use by
31 records custodians in complying with the law governing access to
32 public records;

33 prepare guidelines and an informational pamphlet for use by
34 public bodies in complying with the Open Public Meetings Act;

35 receive the resolutions filed by public bodies regarding Internet
36 site publisher designations, pursuant to section 15 of P.L. ,
37 c. (C.) (now pending before the Legislature as this bill), and
38 compile them into an Internet accessible database capable of
39 informing the public of the presence and location or absence of an
40 Internet site for any public body;

41 establish standards for the inventory and status reports required
42 by section 16 of P.L. , c. (C.) (now pending before the
43 Legislature as this bill);

44 prepare an informational pamphlet explaining the public's right
45 of access to government records and the methods for resolving
46 disputes regarding access, which records custodians shall make
47 available to persons requesting access to a government record;

1 prepare lists for use by records custodians of the types of records
2 in the possession of public agencies which are government records;
3 make training opportunities available for records custodians and
4 other public officers and employees which explain the law
5 governing access to public records and compliance with the Open
6 Public Meetings Act; and

7 operate an informational website and a toll-free helpline staffed
8 by knowledgeable employees of the council during regular business
9 hours which shall enable any person, including records custodians
10 and members of the public, to call for information regarding the law
11 governing access to public records and the Open Public Meetings
12 Act and allow any person to request mediation or to file a complaint
13 with the council when access has been denied or when a public
14 body may have failed to comply with the Open Public Meetings
15 Act;

16 In implementing the provisions of subsections d. and e. of this
17 section, the council shall: act, to the maximum extent possible, at
18 the convenience of the parties; utilize teleconferencing, faxing of
19 documents, e-mail and similar forms of modern communication;
20 and when in-person meetings are necessary, send representatives to
21 meet with the parties at a location convenient to the parties.

22 c. At the request of the council, a public agency or public body
23 shall produce documents, including unredacted minutes and audio
24 or video recordings of executive sessions, and ensure the attendance
25 of witnesses with respect to the council's investigation of any
26 complaint or the holding of any hearing.

27 d. Upon receipt of a written complaint signed by any person
28 alleging that a custodian of a government record has improperly
29 denied that person access to a government record or that a public
30 body has failed to comply with the Open Public Meetings Act, the
31 council shall offer the parties the opportunity to resolve the dispute
32 through mediation. Mediation shall enable a person who has been
33 denied access to a government record and the custodian who denied
34 or failed to provide access thereto, or a person who has complained
35 about a violation of the Open Public Meetings Act and the public
36 body which is the subject of the complaint, to attempt to mediate
37 the dispute through a process whereby a neutral mediator, who shall
38 be trained in mediation selected by the council, acts to encourage
39 and facilitate the resolution of the dispute. Mediation shall be an
40 informal, nonadversarial process having the objective of helping the
41 parties reach a mutually acceptable, voluntary agreement. The
42 mediator shall assist the parties in identifying issues, foster joint
43 problem solving, and explore settlement alternatives.

44 e. If any party declines mediation or if mediation fails to resolve
45 the matter to the satisfaction of all parties, the council shall initiate
46 an investigation concerning the facts and circumstances set forth in
47 the complaint. The council shall make a determination as to
48 whether the complaint is within its jurisdiction or frivolous or

1 without any reasonable factual basis. If the council shall conclude
2 that the complaint is outside its jurisdiction, frivolous or without
3 factual basis, it shall reduce that conclusion to writing and transmit
4 a copy thereof to the complainant and to the records custodian or
5 public body against whom the complaint was filed. Otherwise, the
6 council shall notify the records custodian or public body against
7 whom the complaint was filed of the nature of the complaint and the
8 facts and circumstances set forth therein. The custodian or public
9 body shall have the opportunity to present the board with any
10 statement or information concerning the complaint which the
11 custodian or public body wishes. If the council is able to make a
12 determination as to a record's accessibility or as to whether the
13 Open Public Meetings Act was violated based upon the complaint
14 and the custodian's or public body's response thereto, it shall reduce
15 that conclusion to writing and transmit a copy thereof to the
16 complainant and to the records custodian or public body against
17 whom the complaint was filed. If the council is unable to make a
18 determination as to a record's accessibility or as to a public body's
19 compliance based upon the complaint and the custodian's response
20 thereto, the council shall conduct a hearing on the matter in
21 conformity with the rules and regulations provided for hearings by a
22 State agency in contested cases under the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as
24 they may be applicable and practicable. The council shall, by a
25 majority vote of its members, render a decision as to whether the
26 record which is the subject of the complaint is a government record
27 which must be made available for public access pursuant to
28 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented or
29 whether the matters complained of constitute violations of the Open
30 Public Meetings Act. If the council determines, by a majority vote
31 of its members, that a public official, officer, attorney or employee
32 or custodian has [knowingly and willfully] substantially violated
33 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,
34 [and is found to have unreasonably denied access under the totality
35 of the circumstances,] the council may impose the penalties
36 provided for in section 12 of P.L.2001, c.404 (C.47:1A-11). If the
37 council determines, by a majority vote of its members, that a public
38 body, or a member, officer, attorney or employee thereof, has
39 substantially violated the Open Public Meetings Act, the council
40 may impose the penalties provided section 12 of P.L.1975, c.231
41 (C.10:4-17).

42 The council shall appoint and compensate one or more
43 presenters, who shall be licensed attorneys. If the council finds
44 probable cause that the Open Public Records Act or Open Public
45 Meetings Act has been violated, it may submit the case to the
46 presenter for prosecution. Upon finding that the Open Public
47 Records Act or the Open Public Meetings Act has been violated, the
48 council shall order the public agency or body which employed or

1 appointed the offender to reimburse the council for the cost of the
2 prosecution or pay the complainant's reasonable attorneys fees, as
3 the case may be. A decision of the council may be appealed to the
4 Appellate Division of the Superior Court. A decision of the council
5 shall not have value as a precedent for any case initiated in Superior
6 Court pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). All
7 proceedings of the council pursuant to this subsection shall be
8 conducted as expeditiously as possible.

9 f. The council shall not charge any party a fee in regard to
10 actions filed with the council. The council shall be subject to the
11 provisions of the "Open Public Meetings Act," P.L.1975, c.231
12 (C.10:4-6), except that the council may go into closed session
13 during that portion of any proceeding during which the contents of a
14 contested record or the occurrences at an executive session meeting
15 would be disclosed. A **[requestor]** complainant who prevails in
16 any proceeding, or whose complaint is found by the council to have
17 been instrumental in bringing about compliance, shall be entitled to
18 a reasonable attorney's fee.

19 g. The council shall not have jurisdiction over the Judicial or
20 Legislative Branches of State Government or any agency, officer, or
21 employee of those branches.

22 (cf: P.L.2001, c.404, s.8)

23

24 14. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to
25 read as follows:

26 12. a. A public official, officer, attorney, employee or custodian
27 who **[knowingly and willfully]** violates P.L.1963, c.73 (C.47:1A-1
28 et seq.), as amended and supplemented, **[and is found to have**
29 **unreasonably denied access under the totality of the circumstances,]**
30 shall be subject to a civil penalty of up to \$1,000 for an initial
31 violation, not less than \$500 nor more than \$2,500 for a second
32 violation **[that occurs within 10 years of an initial violation],** and
33 not less than \$2,500 nor more than \$5,000 for a third violation **[that**
34 **occurs within 10 years of an initial violation].** This penalty shall be
35 collected and enforced in proceedings in accordance with the
36 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
37 et seq.), and the rules of court governing actions for the collection
38 of civil penalties. The Superior Court shall have jurisdiction of
39 proceedings for the collection and enforcement of the penalty
40 imposed by this section. Any penalty imposed shall be borne by the
41 offender personally and shall not be paid out of public funds.

42 Appropriate disciplinary proceedings may be initiated against a
43 public official, officer, attorney, employee or custodian against
44 whom a penalty has been imposed.

45 (cf: P.L.2001, c.404, s.12)

- 1 15. (New section) a. A public body shall designate by
2 resolution an Internet site for making available to the public certain
3 information regarding the public body's meetings, except that the
4 designation shall only be required if the public body can confirm
5 that a public, non-profit or private sector Internet publisher is
6 available that meets the following criteria:
- 7 the publisher, without charge to the public body, shall receive
8 from the public body the information that the public body provides
9 in a reasonable and appropriate manner specified by the publisher;
 - 10 the publisher, without charge to the public body, shall promptly
11 provide unrestricted access to the information to all members of the
12 Internet on-line public, without charge, whether or not the
13 members identify themselves;
 - 14 the publisher, without charge to the public body, shall provide
15 continued access to each item of information for the time periods
16 required by this section or for its term of service, whichever is
17 shorter;
 - 18 the publisher shall commit to providing the service for a stated
19 term of service of at least one year; and
 - 20 the publisher shall, without charge, at the end of its term of
21 service, provide all of the data posted on the site, in electronic form,
22 to the public body or to any successor publisher that the public body
23 may designate.
- 24 b. The public body shall promptly provide notice of the
25 designated Internet site and publisher by:
- 26 providing to the Open Government Council a certified copy of
27 the resolution of designation; and
 - 28 prominently posting at the meeting room of the public body a
29 notice informing the public of the Internet site and its contents.
- 30 c. When a public body finds, after diligent search, that no
31 Internet site and publisher is available which meets the criteria set
32 forth in subsection a. of this section, it shall promptly provide to the
33 Open Government Council a certified copy of a resolution
34 describing the search results and prominently post at the meeting
35 room of the public body a copy of the resolution.
- 36 d. When a public body subsequently receives credible
37 notification of an available Internet site and publisher which meets
38 the criteria set forth in subsection a. of this section, the public body
39 shall diligently explore the availability of the Internet site and
40 publisher, shall take appropriate action and shall provide a report to
41 the Open Government Council, to the party who provided the
42 notification and to the public at an open meeting.
- 43 e. A public body may, in its own discretion, designate itself as
44 the publisher of its own Internet site, provided that it meets the
45 applicable criteria set forth in subsection a. of this section.
- 46 f. For reasons of economy and public convenience, the State, or
47 a municipality or county, may establish one central Internet site for

1 all public bodies within their respective jurisdictions for the
2 purposes of this section.

3 g. A public body shall, in order to maintain a continuous
4 Internet presence, attempt to extend its publisher's term of service
5 or designate a new publisher prior to the expiration of its present
6 publisher's term of service. If its publisher defaults in its
7 responsibilities or its term of service expires without a renewal or
8 replacement designation having been resolved, the public body shall
9 repeat the procedures set forth in subsections a through d of this
10 section.

11 h. All information and documents made available to the public
12 on the Internet site shall be text-searchable and accessible through
13 commonly available computer software. The information which the
14 public body shall make available to the public on the Internet site
15 shall include, but not be limited to, the following:

16 the public body's annual schedule of regular meetings and the
17 agendas of those meetings and revisions thereto;

18 the current inventory and status report of minutes and audio
19 recordings of closed meetings pursuant section 16 of P.L. ,
20 c. (C.) (now pending before the Legislature as this bill);

21 notice of any meeting held without adequate notice pursuant to
22 one of the exceptions to the adequate notice requirement listed in
23 subsection b. of section 4 of P.L.1975, c.231 (C.10:4-9);

24 the minutes of each meeting of the public body, including the
25 minutes of the closed portion of any meeting to the extent that those
26 minutes have been made available to the public, which shall remain
27 posted on the Internet site for a period of at least three years from
28 the date of posting;

29 resolutions and ordinances, to the extent they are not already set
30 forth in the minutes;

31 any resolution adopted by the public body for the purpose of
32 complying with the provisions of P.L.1975, c.231 (C.10:4-6 et
33 seq.), which shall remain posted on the Internet site for a period of
34 at least three years from the date of posting;

35 in the case of municipalities, municipal ordinances; and

36 the toll-free telephone number and e-mail address of the Open
37 Government Council and a notification that any person may file a
38 complaint against the public body for noncompliance with the act.

39 i. A public body that has designated an Internet site pursuant to
40 this section shall provide a requestor with free, paper copies of any
41 information that is required to be posted on the Internet but is not so
42 posted.

43 j. The Open Government Council is authorized to adopt, in
44 accordance with the "Administrative Procedures Act", P.L.1968,
45 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to
46 implement this section.

1 16. (New section) a. At least quarterly, a public body shall
2 conduct a review of the minutes and audio recordings of the closed
3 portion of any previous meeting when any part has been withheld
4 from public access. The review shall determine whether any part of
5 any minutes or audio recordings which have been withheld from
6 public access can now be made accessible to the public. If the
7 public body determines that any part of previously-withheld
8 minutes or audio recordings can now be disclosed to the public, it
9 shall make that part thereof accessible to the public. Upon
10 completion of a review, the public body shall adopt a resolution
11 indicating that it has conducted the review and that all information
12 from closed meetings which can be made available to the public, as
13 of the date of the review, has been made available. The resolution
14 shall also state, as precisely as possible, the time when and the
15 circumstances under which the withheld portion of minutes and
16 audio recordings will be disclosed to the public.

17 b. If a public body holds a meeting from which the public has
18 been excluded, the public body shall require that an inventory and
19 status report be prepared, maintained and made public concerning
20 the minutes, audio recordings or other records of such meetings.
21 The report shall conform to any standards adopted by the Open
22 Government Council and shall indicate for each subject designated
23 by the resolution to be discussed at the meeting whether and when
24 the minutes of such portion have been established by resolution for
25 disclosure, drafted, submitted for approval of the public body,
26 approved, designated for eventual release or redaction, redacted,
27 released, and posted on the Internet. The Open Government
28 Council shall have access to the minutes and recordings at any time
29 for the sole purpose of monitoring compliance.

30 c. The Open Government Council is authorized to adopt, in
31 accordance with the "Administrative Procedures Act", P.L.1968,
32 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to
33 implement this section.

34

35 17. There shall be appropriated annually from the General Fund
36 to the Open Government Council such sums as the State Treasurer
37 deems necessary in order for the council to reimburse public bodies
38 for any increase in costs associated with the sound recording of
39 meetings required by section 9 of P.L.1975, c.231 (C.10:4-14).

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41 18. Sections 1 and 2 of P.L. 2002, c.91 (C.10:4-9.1 et seq.) are
42 repealed.

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44 19. This act shall take effect immediately.

STATEMENT

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This bill revises the law concerning meetings of public bodies and access to government records.

Specifically, the bill would amend the Open Public Meetings Act to provide that:

a typical partisan caucus of members of a public body would constitute a meeting of the public body that is subject to the act's requirements when all of the members of the public body are members of the same political party;

"committees and subcommittees" of a public body and "formally constituted advisory bodies and subcommittees" of a public body would be subject to the act's provisions;

the use of electronic mail, instant messaging, or similar technologies would constitute a "meeting" of a "public body";

"adequate notice" of a meeting would mean advance written notice of at least three business days, instead of 48 hours as provided under current law, and that notice must be posted on the public body's Internet site, if the public body has established an Internet site, and, notwithstanding that a public body has provided annual notice of its regular meetings, that notice of meetings must be posted on that Internet site, if one has been established;

every public body must set aside a portion of every meeting, of not be less than five minutes per person wishing to speak and, provided there are sufficient speakers, not less than one hour in total, for public comment on any governmental issue that a member of the public feels may be of concern, that the period for general public comment will be provided at the beginning of the meeting, that the body will invite public comment before taking final action on a matter, and that, in the latter case, public comment will be limited to the matter at hand and the duration will be at the discretion of the public body;

a public body will not prohibit a member of the public from audiotaping or videotaping a public meeting unless the public body can demonstrate that audiotaping or videotaping is unduly disruptive;

a resolution adopted by a public body to go into closed session must state the reason as specifically as possible and must give the specific basis for exclusion of the public;

a public body must keep "comprehensive" minutes of its meetings, instead of "reasonably comprehensible" minutes as required by current law;

minutes of meetings must include the identity of each member of public who spoke at the meeting;

a public body must sound record all of its meetings, including closed and emergency meetings, and keep the recordings for six years for use in litigation and enforcement, and must allow public

1 access thereto when there is no longer any basis for excluding the
2 public from the discussion of the matters or matters;
3 recordings and draft minutes, marked as such, must be made
4 available to the public within five business days of a meeting to the
5 extent that making such matters public will not be inconsistent with
6 the act;
7 an action brought in Superior Court to void an action of a public
8 body that violates the act will not be subject to dismissal on grounds
9 that the matter in question no longer presents a case or controversy;
10 any party, other than a public body, who prevails in an action
11 brought under the act, or whose complaint is found to have been
12 instrumental in bringing about compliance, will be awarded the
13 amount of reasonable attorneys fees incurred in bringing the action,
14 the cost of which will be paid by the public body;
15 the Open Government Council (the renamed Government
16 Records Council) is without authority to void an action of a public
17 body under the act;
18 the Open Government Council may issue injunctions to ensure
19 compliance with the act;
20 fines and penalties for violations of the act will be increased;
21 disciplinary proceedings may be initiated against a public
22 official, officer, attorney, employee or custodian against whom a
23 penalty has been imposed; and
24 a public body must post its annual notice of regular meetings on
25 its Internet site, if the public body has established an Internet site.
26 In addition, the bill amends the Open Public Records Act to
27 provide that:
28 the Government Records Council is renamed the Open
29 Government Council;
30 the council will have jurisdiction over the Open Public Meetings
31 Act, in addition to the Open Public Records Act;
32 if the council determines, by a majority vote of its members, that
33 a public body, or one or more of its members, officers, attorneys or
34 employees, has substantially violated the Open Public Meetings
35 Act, the council may impose the penalties provided for in the act;
36 the council will appoint and compensate one or more presenters,
37 who shall be licensed attorneys; and
38 if the council finds probable cause that the Open Public Records
39 Act or Open Public Meetings Act has been violated, it may submit
40 the case to the presenter for prosecution and that, upon finding that
41 either act has been violated, the council will order the public agency
42 which employed or appointed the offender to reimburse the council
43 for the cost of the prosecution or pay the complainant's reasonable
44 attorneys fees, as the case may be.
45 The bill also provides that:
46 every public body will designate by resolution an Internet site for
47 making available to the public certain information regarding the
48 public body's meetings, except that the designation will only be

1 required if the public body can confirm that a public, non-profit or
2 private sector Internet publisher is available that meets the
3 following criteria:

4 the publisher, without charge to the public body, will receive
5 from the public body the information that the public body provides
6 in a reasonable and appropriate manner specified by the publisher;

7 the publisher, without charge to the public body, will promptly
8 provide unrestricted and charge-free access to the information to all
9 members of the Internet on-line public whether or not the members
10 identify themselves;

11 the publisher, without charge to the public body, will provide
12 continued access to each item of information for the required time
13 periods or for its term of service, whichever is shorter;

14 the publisher will commit to providing the services for a stated
15 term of service of at least one year; and

16 the publisher will, without charge, at the end of its term of
17 service, provide all of the data posted on the Internet site, in
18 electronic form, to the public body or to any successor publisher
19 that the public body may designate.

20 Furthermore, the bill provides that:

21 a public body will promptly provide notice of its designated
22 Internet site and publisher by:

23 providing to the Open Government Council a certified copy of
24 the resolution of designation; and

25 prominently posting at the public meeting room a notice
26 informing the public of the Internet site and its kinds of content.

27 If a public body finds, after a diligent search, that no Internet site
28 and publisher is available, it must promptly provide to the Open
29 Government Council a certified copy of a resolution describing the
30 search results and prominently posting at the meeting room of the
31 public body a copy of the resolution.

32 If a public body subsequently receives credible notification of an
33 available Internet site and publisher, the public body must diligently
34 explore the availability of the Internet site and publisher, take
35 appropriate action and provide a report to the Open Government
36 Council, to the party who provided the notification, and to the
37 public at an open meeting.

38 A public body may, in its discretion, designate itself as the
39 publisher of its own Internet site.

40 For reasons of economy and public convenience, the State, or a
41 municipality or county, may establish one central Internet site for
42 all public bodies within their respective jurisdictions.

43 A public body may, in order to maintain a continuous Internet
44 presence, attempt to extend its publisher's term of service or
45 designate a new publisher prior to the expiration of its present
46 publisher's term of service. If its publisher defaults in its
47 responsibilities or its term of service expires without a renewal or

1 replacement designation having been resolved, the public body
2 must repeat the above procedures.

3 All information and documents made available to the public on
4 the Internet site must be text-searchable and accessible through
5 commonly available computer software. The information which the
6 public body makes available to the public on the Internet site will
7 include, but not be limited to, the public body's annual schedule of
8 regular meetings and its agendas of those meetings and revisions
9 thereto, the current inventory and status report, notice of any
10 meeting held without adequate notice pursuant to one of the
11 exceptions to the adequate notice requirement, the minutes of each
12 meeting of the public body, including the minutes of the closed
13 portion of any meeting to the extent that those minutes have been
14 made available to the public, which must remain posted on the
15 Internet site for a period of at least three years from the date of
16 posting, resolutions and ordinances, to the extent they are not
17 already set forth in the minutes, any resolution adopted by the
18 public body for the purpose of complying with the requirements for
19 a closed meeting, which shall remain posted on the Internet site for
20 a period of at least three years from the date of posting, in the case
21 of municipalities, its municipal ordinances, the toll-free telephone
22 number and e-mail address of the Open Government Council and a
23 notification that any person may file a complaint against the public
24 body for noncompliance with the act.

25 Public bodies that have designated a Internet site shall provide
26 any requestor with free, paper copies of any information that is
27 required to be posted on the Internet but is not so posted.

28 The bill also provides that, at least quarterly, a public body will
29 conduct a review of the minutes and audio recordings of the closed
30 portion of any previous meeting where any part has been withheld
31 from public access. The review will determine whether any part of
32 any minutes or audio recordings which have been withheld from
33 public access can now be made accessible to the public. If the
34 public body determines that any part of previously-withheld
35 minutes or audio recordings can now be disclosed to the public, it
36 will make that part accessible to the public. Upon completion of a
37 review, the public body will adopt a resolution indicating that it has
38 conducted the review and that all information from closed meetings
39 which can be made available to the public, as of the date of the
40 review, has been made available. The resolution must also state, as
41 precisely as possible, the time when, and the circumstances under
42 which, the withheld portion of any minutes and audio recordings
43 will be disclosed to the public.

44 If a public body holds a meeting where the public has been
45 excluded, the public body will require that an inventory and status
46 report be prepared, maintained and made public on all minutes,
47 audio recordings or other records of the meetings. The report must
48 conform to any standards adopted by the Open Government Council

1 and indicate for each subject designated by the resolution to be
2 discussed at the meeting whether and when the minutes of such
3 portion have been established by resolution for disclosure, drafted,
4 submitted for approval of the public body, approved, designated for
5 eventual release or redaction, redacted, released, and posted on the
6 Internet. The Open Government Council will have access to the
7 minutes and tapes at any stage for the sole purpose of monitoring
8 compliance.

9 The Open Government Council is authorized to adopt rules and
10 regulations necessary to implement the bill's provisions.

11 The bill appropriates annually from the General Fund to the
12 Open Government Council such sums as the State Treasurer deems
13 necessary in order for the council to reimburse public bodies for
14 any increase in costs associated with the sound recording of
15 meetings required by the bill.