

**CULTURAL COMMISSION**  
**STAFF REPORT**

**MEETING DATE:** December 17, 2013

**AGENDA ITEM NUMBER:** 3B

**APPLICANT:** Tina Russom, Deputy District Attorney  
Vern L. Krahn, Park Planner

**REQUEST:** Presentation and discussion only on the Nevada Open Meeting Law requirements by the Carson City District Attorney's Office.

**GENERAL DISCUSSION:** The Nevada Open Meeting Law (OML) was enacted in 1960 to ensure that the actions and deliberations of public bodies are conducted openly. A public body is considered any administrative, advisory, executive, or legislative body of the state or local government which expends or disburses or is supported in whole or in part by tax revenue, or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including any board, commission, committee, subcommittee or other subsidiary. As a result, the OML governs the meetings of public bodies and by definition this Commission is considered to be a public body.

Ms. Russom will be in attendance at this meeting to provide an educational presentation and overview of the law. This presentation is not intended to address all

provisions of the OML but rather to address the issues related to the actions and deliberations of this Advisory Committee. Staff is asking the Commission to review the attached "Guide to the Nevada Open Meeting Law" (Exhibit A) in preparation for the presentation.

For additional information, any Committee member can view the full text of the OML as set forth in Chapter 241 of the Nevada Open Meeting Law Revised Statutes (NRS).

**RECOMMENDED ACTION:**

This agenda item is for presentation, discussion, and educational purposes only. No action can be taken at this time.

**FYI**

Cultural Commission Members:

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Please review this

“Guide to the Nevada Open Meeting Law”

In preparation for a presentation on it at the

December meeting

Thanks, Vern

**Exhibit A**

## A Guide to the Nevada Open Meeting Law

**FYI**

The Nevada Open Meeting Law (OML) was enacted in 1960 to ensure that the actions and deliberations of public bodies be conducted openly. This brochure provides a brief overview of the law, but is not intended to address all provisions of the OML, or all issues that arise under the OML. For additional information, see the full text of the OML set forth in chapter 241 of the Nevada Revised Statutes (NRS). For additional guidance on the OML, see the Nevada Open Meeting Law Manual published by the Office of the Attorney General, and the Open Meeting Law Compliance Checklist, as well as Open Meeting Law Opinions of the Office of the Attorney General.

### When does the OML apply?

The OML governs meetings of public bodies. A public body is any administrative, advisory, executive, or legislative body of the state or local government which expends or disburses or is supported in whole or in part by tax revenue, or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including any board, commission, committee, subcommittee, or other subsidiary.

### Is a meeting going to occur?

The OML only applies to meetings of a quorum of the members of a public body. A **quorum** is a simple majority of the membership of a public body, or another proportion established by law. A **meeting** occurs when a quorum of the public body is present to deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction, or advisory power.

### Has proper notice been given of the meeting?

The OML requires that a written notice of the meeting be prepared which includes the time, place, and location of the meeting, a list of places where the notice was posted, a statement regarding assistance and accommodations for physically handicapped people, and an agenda of the meeting.

The notice must be posted at the principal office of the public body (or if there is no principal office, at the building in which the meeting is to be held), and posted at not less than three (4!) other separate, prominent places within the jurisdiction of the public body. Notice must be posted no later than 9 a.m. on the third working day prior to the meeting – do not count the day of the meeting.

Written notice must be mailed, at no charge, to those who have requested written notice, and delivered to the United States Postal Service no later than 9 a.m. of the third working day before the meeting. Remember, you must inform persons who have requested notice in the first notice sent to them that their request lapses after six months.

### Does the agenda comply with the OML?

The OML requires that the agenda for the meeting consist of a clear and complete statement of the topics to be considered during the meeting.

The agenda **must include a list** describing the items on which action may be taken and clearly denoting that action may be taken on those items.

The agenda must also **include a period devoted to public comment**, and should **include a statement that no action may be taken upon a matter raised under the public comment period** unless the matter itself has been specifically included on an agenda as an action item.

### **Is agenda support material available?**

The OML requires that **at least one copy of the agenda, proposed ordinance or regulation which will be discussed at the meeting, and any other supporting material** (except material confidential by law) **be provided** at no charge **to any person who requests it**. The material must be made available at a public place once the material has been distributed to members of the public body, and at the public meeting.

### **Was the public comment period conducted in accordance with the OML?**

The OML requires that a period during the meeting be designated for public comment. The public comment period should not be restricted to speaking on non-agenda items unless the public is permitted to speak on agenda items as they are heard.

Reasonable rules and regulations which ensure orderly conduct of a public meeting may be adopted by a public body, and reasonable restrictions, including time limits, can be imposed on speaking. Any rule that limits or restricts public comment must be clearly articulated on the agenda. Remember, any practice or policy that discourages or results in preventing public comment, even if technically in compliance with the law, may violate the spirit and intent of the OML.

### **Exemptions and Exceptions from the OML?**

Nevada law provides for some exemptions from the requirements of the OML, such as judicial proceedings, certain proceedings of state and local ethics commissions, and meetings of the legislature and legislative committees.

There are also certain exceptions to the OML which allow a public body to temporarily close its meeting to the public. The OML **permits a public body to close its meeting to:** consider a person's character, alleged misconduct, professional competence, or physical or mental health. Such a session, whether open or closed, cannot be held unless the subject of the meeting has been given written notice of the time and place of the meeting by certified mail at least 21 days prior to the meeting, or by personal service at least five days prior to the meeting, and cannot be held if the person is an elected member of a public body, or to discuss the appointment of any person to public office or as a member of a public body.

Always check the NRS to see if a particular proceeding is exempt or excepted from the OML.

### **Minutes and recordings under the OML?**

The OML requires that written minutes be kept of each meeting of the public body, for both closed and open sessions. Written minutes must include: the date, time, and place of the meeting, the members of the public body who were present, the substance of all matters proposed, discussed or decided, the substance of oral or written remarks made by a member of the public if he so requests, and any other information which a member of the public body requests to be included.

Written minutes, and any audio or tape recordings of an open meeting must be available for public inspection within 30 working days after adjournment of the meeting. Minutes of public meetings must be retained by the public body for at least five years. Upon request, minutes of closed sessions must be provided to the person to which the closed session pertained within 30 working days of adjournment of the meeting. Minutes of closed sessions are generally not public records.

**Violations of the OML?**

The Office of the Attorney General is required to investigate and prosecute violations of the OML. The Office of the Attorney General, and any person denied a right conferred under the OML, may sue in District Court to void any action taken in violation of the OML within 60 days after the action was taken, or may sue to require compliance with the OML within 120 days after the action objected to was taken.

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A member of a public body may be guilty of a misdemeanor if he willfully violates the OML.

# CHAPTER 241 - MEETINGS OF STATE AND LOCAL AGENCIES

<b>NRS 241.010</b>	Legislative declaration and intent.
<b>NRS 241.015</b>	Definitions.
<b>NRS 241.020</b>	Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.
<b>NRS 241.031</b>	Meeting to consider character, misconduct or competence of elected member of public body or certain public officers.
<b>NRS 241.033</b>	Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.
<b>NRS 241.034</b>	Meeting to consider administrative action against person or acquisition of real property by exercise of power of eminent domain: Written notice required; exception.
<b>NRS 241.035</b>	Public meetings: Minutes; aural and visual reproduction; transcripts.
<b>NRS 241.0353</b>	Absolute privilege of certain statements and testimony.
<b>NRS 241.0355</b>	Majority of all members of public body composed solely of elected officials required to take action by vote; abstention not affirmative vote; reduction of quorum.
<b>NRS 241.036</b>	Action taken in violation of chapter void.
<b>NRS 241.037</b>	Action by Attorney General or person denied right conferred by chapter; limitation on actions.
<b>NRS 241.038</b>	Board of Regents to establish requirements for student governments.
<b>NRS 241.040</b>	Penalties; members attending meeting in violation of chapter not accomplices; enforcement by Attorney General.

**NRS 241.010 Legislative declaration and intent.** In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

(Added to NRS by 1960, 25; A 1977, 1099)

**NRS 241.015 Definitions.** As used in this chapter, unless the context otherwise requires:

1. **"Action"** means:

- (a) A decision made by a majority of the members present during a meeting of a public body;
- (b) A commitment or promise made by a majority of the members present during a meeting of a public body;
- (c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or
- (d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. **"Meeting"**:

(a) **Except as otherwise provided in paragraph (b), means:**

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "**public body**" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of [NRS 388.750](#) and a university foundation as defined in subsection 3 of [NRS 396.405](#); and

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of [NRS 116.1201](#).

*- "Public body" does not include the Legislature of the State of Nevada.*

4. "**Quorum**" means a simple majority of the constituent membership of a public body or another proportion established by law.

(Added to NRS by 1977, 1098; A 1993, 2308, 2624; 1995, 716, 1608; [2001, 1123, 1836](#); [2009, 2214](#))

#### **NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.**

1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, **written notice of all meetings must be given at least 3 working days before the meeting.** The notice must include:

(a) **The time, place and location of the meeting.**

(b) **A list of the locations where the notice has been posted.**

(c) An agenda consisting of:

(1) A clear and complete **statement of the topics** scheduled to be considered during the meeting.

(2) **A list describing the items on which action may be taken** and clearly denoting that action may be taken on those items.

(3) **A period devoted to comments by the general public**, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) **If:** any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) **If:** during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. **Minimum public notice is:**

(a) **Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and**

(b) **Providing a copy of the notice to any person who has requested notice of the meetings of the public body.** A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. **If:** a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) **An agenda for a public meeting;**

(b) **A proposed ordinance or regulation which will be discussed at the public meeting; and**

(c) **Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:**

(1) **Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;**

(2) **Pertaining to the closed portion of such a meeting of the public body; or**

(3) **Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.**

*• The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.*

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

*• If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.*

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "**emergency**" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.

(Added to NRS by 1960, 25; A 1977, 1099, 1109; 1979, 97; 1989, 570; 1991, 785; 1993, 1356, 2636; 1995, 562, 1608; 2001, 2395; 2003, 488; 2005, 2243; 2007, 1122; 2009, 2288)

**NRS 241.030 Exceptions to requirement for open and public meetings; waiver of closure of meeting by certain persons.**

1. **Except as otherwise provided in this section and NRS 241.031 and 241.033, a public body may hold a closed meeting to:**

(a) **Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.**

(b) **Prepare, revise, administer or grade examinations** that are conducted by or on behalf of the public body.

(c) **Consider an appeal by a person of the results of an examination** that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

2. A person whose character, alleged misconduct, professional competence, or physical or mental health will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:

(a) May be made at any time before or during the meeting; and

(b) Must be honored by the public body unless the consideration of the character, alleged misconduct, professional competence, or physical or mental health of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.

3. **A public body may close a meeting pursuant to subsection 1 upon a motion which specifies:**

(a) **The nature of the business to be considered;** and

(b) **The statutory authority pursuant to which the public body is authorized to close the meeting.**

4. **This chapter does not:**

(a) **Apply to judicial proceedings.**

(b) **Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.**

(c) **Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness.**

(d) **Require that any meeting be closed to the public.**

(e) **Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.**

5. The exceptions provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

(Added to NRS by 1960, 25; A 1977, 1100; 1983, 331; 1993, 2637; 2005, 977, 2244)

**NRS 241.031 Meeting to consider character, misconduct or competence of elected member of public body or certain public officers.**

1. **Except as otherwise provided in subsection 2, a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of:**

(a) **An elected member of a public body;** or

(b) **A person who is an appointed public officer or who serves at the pleasure of a public body** as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university, state college or community college within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and a city manager.

2. The prohibition set forth in subsection 1 does not apply if: the consideration of the character, alleged misconduct or professional competence of the person does not pertain to his or her role as an elected member of a public body or an appointed public officer or other officer described in paragraph (b) of subsection 1, as applicable.

(Added to NRS by 1993, 2636; A 2005, 2245)

**NRS 241.033 Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.**

1. A public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

- (a) **Given written notice to that person of the time and place of the meeting;** and
- (b) **Received proof of service of the notice.**

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

- (1) **Delivered personally to that person at least 5 working days before the meeting;** or
- (2) **Sent by certified mail to the last known address of that person at least 21 working days before the meeting.**

(b) **May:** with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

- (1) **A list of the general topics concerning the person that will be considered by the public body during the closed meeting;** and
- (2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. *Except as otherwise provided in subsection 4,* with regard to the attendance of persons other than members of the public body *and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered,* the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to [NRS 241.035](#), upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section, casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

(Added to NRS by 1993, 2636; A 2005, 977, 2246, 2248)

**NRS 241.034 Meeting to consider administrative action against person or acquisition of real property by exercise of power of eminent domain: Written notice required; exception.**

1. Except as otherwise provided in subsection 3:

(a) A public body shall not consider at a meeting whether to:

(1) Take administrative action against a person; or

(2) Acquire real property owned by a person by the exercise of the power of eminent domain,  
*• unless the public body has given written notice to that person of the time and place of the meeting.*

(b) The written notice required pursuant to paragraph (a) must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

*• A public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider a matter set forth in paragraph (a) relating to that person at a meeting.*

2. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to [NRS 241.020](#).

3. The written notice otherwise required pursuant to this section is not required if:

(a) The public body provided written notice to the person pursuant to [NRS 241.033](#) before holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of the person; and

(b) The written notice provided pursuant to [NRS 241.033](#) included the informational statement described in paragraph (b) of subsection 2 of that section.

4. For the purposes of this section, real property shall be deemed to be owned only by the natural person or entity listed in the records of the county in which the real property is located to whom or which tax bills concerning the real property are sent.

(Added to NRS by 2001, 1835; A 2001 Special Session, 155; 2005, 2247)

**NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

2. **Minutes of public meetings are public records.** Minutes or audiotape recordings of the meetings must be made available for inspection by the public within 30 working days after the adjournment of the meeting at which taken. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with [NRS 239.080](#) to [239.125](#), inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection 6, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to [chapter 656](#) of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. Except as otherwise provided in subsection 6, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

6. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 5 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

(Added to NRS by 1977, 1099; A 1989, 571; 1993, 449, 2638; [2005, 978, 1404](#))

#### **[NRS 241.0353](#) Absolute privilege of certain statements and testimony.**

1. Any statement which is made by a member of a public body during the course of a public meeting is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

2. A witness who is testifying before a public body is absolutely privileged to publish defamatory matter as part of a public meeting, except that it is unlawful to misrepresent any fact knowingly when testifying before a public body.

(Added to NRS by [2005, 2242](#))

#### **[NRS 241.0355](#) Majority of all members of public body composed solely of elected officials required to take action by vote; abstention not affirmative vote; reduction of quorum.**

1. A public body that is required to be composed of elected officials only may not take action by vote unless at least **a majority of all the members of the public body vote in favor of the action**. For purposes of this subsection, a public body may not count an abstention as a vote in favor of an action.

2. In a county whose population is 40,000 or more, the provisions of subsection 5 of [NRS 281A.420](#) do not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the

abstention is required pursuant to [NRS 281A.420](#). The opinion of counsel must be in writing and set forth with specificity the factual circumstances and analysis leading to that conclusion.

(Added to NRS by [2001, 1123](#); A [2003, 818](#))

**NRS 241.036 Action taken in violation of chapter void.** The action of any public body taken in violation of any provision of this chapter is void.

(Added to NRS by [1983, 1012](#))

**NRS 241.037 Action by Attorney General or person denied right conferred by chapter; limitation on actions.**

1. The Attorney General may sue in any court of competent jurisdiction to have an action taken by a public body declared void or for an injunction against any public body or person to require compliance with or prevent violations of the provisions of this chapter. The injunction:

(a) May be issued without proof of actual damage or other irreparable harm sustained by any person.

(b) Does not relieve any person from criminal prosecution for the same violation.

2. Any person denied a right conferred by this chapter may sue in the district court of the district in which the public body ordinarily holds its meetings or in which the plaintiff resides. A suit may seek to have an action taken by the public body declared void, to require compliance with or prevent violations of this chapter or to determine the applicability of this chapter to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this subsection.

3. Any suit brought against a public body pursuant to subsection 1 or 2 to require compliance with the provisions of this chapter must be commenced within 120 days after the action objected to was taken by that public body in violation of this chapter. Any such suit brought to have an action declared void must be commenced within 60 days after the action objected to was taken.

(Added to NRS by [1983, 1012](#); A [1985, 147](#))

**NRS 241.038 Board of Regents to establish requirements for student governments.** The Board of Regents of the University of Nevada shall establish for the student governments within the Nevada System of Higher Education requirements equivalent to those of this chapter and shall provide for their enforcement.

(Added to NRS by [1983, 1013](#); A [1993, 369](#))

**NRS 241.040 Penalties; members attending meeting in violation of chapter not accomplices; enforcement by Attorney General.**

1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. The Attorney General shall investigate and prosecute any violation of this chapter.

(Added to NRS by [1960, 26](#); A [1977, 1100](#); [1983, 1013](#))