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**OPEN MEETING LAW
2015 LEGISLATIVE AMENDMENTS**

DATE: August 17, 2015
TO: Deputy Attorneys General
FROM: George Taylor, Senior Deputy Attorney General
SUBJECT: 2015 Legislative amendments to Open Meeting law: SB 70.
NOTE: SB 70 was *EFFECTIVE May 27, 2015* upon the Governor's signature.

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If you serve on a public body whether elected or advisory, or if you represent a public body, this memo should familiarize you with SB 70's new amendments.

Below is the electronic link to SB 70:

<https://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?ID=114>

SUMMARY OF AMENDMENTS TO NRS 241

1. Definition of "quorum" has been clarified.
2. "Working day" has been defined.
3. A list of statutory "exceptions" to general provisions of the OML is set out.
4. Application of "administrative action" includes name of person on agenda
5. Compliance with minimum public notice must be documented in writing
6. Designation of alternates to attend public meetings is further refined.
7. Approval of minutes of public meetings requirement is strengthened.
8. The AGO's investigation of OML complaints, including all documents and other information compiled pursuant to NRS 241.039(2), are confidential until the investigation is closed.

9. Certain documents found in the AGO's investigation files are declared to be public records.

DETAILS OF AMENDMENTS

1. Definition of Quorum has been clarified.

The word "constituent" was removed from the definition so that Quorum is the simple majority of the membership of a public body, or another proportion established by law. .

2. "Working day" has been defined.

The definition of working day" for purposes of the OML is now defined to include Monday through Friday except those days declared to be legal holidays pursuant to NRS 236.015.

3. A list of statutory "exceptions" to general provisions of the OML is set out.

NRS 241.016 contains a list of statutes that exempt certain hearings, meetings or other proceedings from NRS 241

4. NRS 241.020 clarifies that use of administrative action "regarding a person," requires name of person to be placed on agenda.

Administrative action "regarding" a person includes a public body's appointment process. In 2004 the Nevada Supreme Court defined "action against a person," as used in NRS 241.034, to include actions involving an **individual's** characteristics or qualifications. The Court in *Harris v. Washoe County Board of Equalization*, 1290 Nev. 1246, 131 P.3d 606 (2004), a case about the notice provision in NRS 241.034, defined the phrase "administrative action against a person." The AGO offered this amendment which substituted the word "**regarding**" for "**against**," so that application of NRS 241.020(2)(d)(5) may be applied at any time an individual's characteristics or qualifications are considered, not just when an action against a person is on the agenda.

5. Compliance with minimum public notice must be documented in writing

This new amendment expands public body notice to require every public body to keep documentation in writing, in its records, of minimum public notice of its public meetings. Minimum public notice is set out in NRS 241.020(3). The place of the meeting and three other places where notices are posted must be documented in writing. If a public body uses more locations to post notices of meetings than the four locations described in statute as minimum public notice, the public body does not have to documented in writing the additional locations unless so desired.

There are three requirements to document public meetings in compliance with this amendment. Each person posting notice must prepare the following facts to comply with minimum public notice:

- 1.) Date and time of posting of public meeting;
- 2.) Address of the location of each posting;
- 3.) Name, title and signature of the person who posted the notice.

6. Designation of alternates to attend public meetings is further refined.

There are many statutory authorities that generally allow a “designee” to serve on a public body, but the details of the various authorities in statute were confusing and had been applied in a haphazard fashion. This amendment supplies some uniformity to the process as well as the designee’s authority to act once seated on a public body. AB 65, Section 3, provides some uniformity of process for certain public bodies.

Designation may only occur if the public body’s creating authority specifically allows for designation. If there is no express authority authorizing a designee, then one cannot be appointed by another member. However, if the legal authority creating the public body expressly authorizes a designee, then the process of designation of a person may occur either in written document, or it may be made on the record at a meeting of the public body.

Once a person is designated, that person, 1) shall be deemed to be a member of the body for the purpose of determining a quorum at the meeting, and 2) may exercise the same powers as the regular members of the body at that meeting.

There is nothing in the statute, which forbids designation of a person for multiple meetings as long as the process is followed and the term of the designation is explicitly set forth so there can be no confusion about the designee’s term.

7. Minutes of each public meeting must be approved within 45 days after the meeting or at its next meeting, whichever occurs later.

Minutes or audio recordings of a public meeting must be available for inspection by the public within 30 working days after adjournment of the meeting.

8. The AGO’s investigation of OML complaints, including all documents and other information compiled pursuant to NRS 241.039(2), are confidential until the investigation is closed.

9. The AGO’s investigation of OML complaints are public records as described below.

- 1.) The Open Meeting Law complaint;
- 2.) Findings of act or conclusions of law made by the AGO;
- 3.) All documents and other information compiled pursuant to NRS 241.039(2) are confidential until the investigation is closed.

