

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 282

Introduced by Baker, 30.

Read first time January 15, 2015

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to public meetings; to amend section 84-1410,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to closed sessions of a public body as prescribed; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-1410, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 84-1410 (1) Any public body may hold a closed session by the
4 affirmative vote of a majority of its voting members if a closed session
5 is clearly necessary for the protection of the public interest or for the
6 prevention of needless injury to the reputation of an individual and if
7 such individual has not requested a public meeting. The subject matter
8 and the reason necessitating the closed session shall be identified in
9 the motion to close. Closed sessions may be held for, but shall not be
10 limited to, such reasons as:

11 (a) Strategy sessions with respect to collective bargaining, real
12 estate purchases, pending litigation, or litigation which is imminent as
13 evidenced by communication of a claim or threat of litigation to or by
14 the public body;

15 (b) Discussion regarding deployment of security personnel or
16 devices;

17 (c) Investigative proceedings regarding allegations of criminal
18 misconduct;

19 (d) Evaluation of the job performance of a nonelected official or
20 employee person when necessary to prevent needless injury to the
21 reputation of a person and if such person has not requested a public
22 meeting;

23 (e) For the Community Trust created under section 81-1801.02,
24 discussion regarding the amounts to be paid to individuals who have
25 suffered from a tragedy of violence or natural disaster; ~~or~~

26 (f) Discussion of applicants, other than finalists, who have applied
27 for employment by the public body. For purposes of this subdivision,
28 finalist means any applicant (i) who reaches the final pool of
29 applicants, numbering four or more, from which the successful applicant
30 is to be selected, (ii) who is an original applicant when the final pool
31 of applicants numbers less than four, or (iii) who is an original

1 applicant and there are four or fewer original applicants; or

2 (g f) For public hospitals, governing board peer review activities,
3 professional review activities, review and discussion of medical staff
4 investigations or disciplinary actions, and any strategy session
5 concerning transactional negotiations with any referral source that is
6 required by federal law to be conducted at arms length.

7 Nothing in this section shall permit a closed meeting for discussion
8 of the appointment or election of a new member to any public body.

9 (2) The vote to hold a closed session shall be taken in open
10 session. The entire motion, the vote of each member on the question of
11 holding a closed session, and the time when the closed session commenced
12 and concluded shall be recorded in the minutes. If the motion to close
13 passes, then the presiding officer immediately prior to the closed
14 session shall restate on the record the limitation of the subject matter
15 of the closed session. The public body holding such a closed session
16 shall restrict its consideration of matters during the closed portions to
17 only those purposes set forth in the motion to close as the reason for
18 the closed session. The meeting shall be reconvened in open session
19 before any formal action may be taken. For purposes of this section,
20 formal action shall mean a collective decision or a collective commitment
21 or promise to make a decision on any question, motion, proposal,
22 resolution, order, or ordinance or formation of a position or policy but
23 shall not include negotiating guidance given by members of the public
24 body to legal counsel or other negotiators in closed sessions authorized
25 under subdivision (1)(a) of this section.

26 (3) Any member of any public body shall have the right to challenge
27 the continuation of a closed session if the member determines that the
28 session has exceeded the reason stated in the original motion to hold a
29 closed session or if the member contends that the closed session is
30 neither clearly necessary for (a) the protection of the public interest
31 or (b) the prevention of needless injury to the reputation of an

1 individual. Such challenge shall be overruled only by a majority vote of
2 the members of the public body. Such challenge and its disposition shall
3 be recorded in the minutes.

4 (4) Nothing in this section shall be construed to require that any
5 meeting be closed to the public. No person or public body shall fail to
6 invite a portion of its members to a meeting, and no public body shall
7 designate itself a subcommittee of the whole body for the purpose of
8 circumventing the Open Meetings Act. No closed session, informal meeting,
9 chance meeting, social gathering, email, fax, or other electronic
10 communication shall be used for the purpose of circumventing the
11 requirements of the act.

12 (5) The act does not apply to chance meetings or to attendance at or
13 travel to conventions or workshops of members of a public body at which
14 there is no meeting of the body then intentionally convened, if there is
15 no vote or other action taken regarding any matter over which the public
16 body has supervision, control, jurisdiction, or advisory power.

17 Sec. 2. Original section 84-1410, Reissue Revised Statutes of
18 Nebraska, is repealed.