

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 743

Introduced by Erdman, 47; Brewer, 43.

Read first time January 05, 2022

Committee:

- 1 A BILL FOR AN ACT relating to the Open Meetings Act; to amend section
- 2 84-1410, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to when closed sessions may be held; to repeal the original
- 4 section; and to declare an emergency.
- 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 or subcommittee of such body may hold a
4 closed session by the affirmative vote of a majority of its voting
5 members if a closed session is clearly necessary for the protection of
6 the public interest or for the prevention of needless injury to the
7 reputation of an individual and if such individual has not requested a
8 public meeting. The subject matter and the reason necessitating the
9 closed session shall be identified in the motion to close. Closed
10 sessions, including those for subcommittees, may only be held for the
11 following ~~, but shall not be limited to, such reasons as:~~

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

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

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

20 (d) Evaluation of the job performance of a person when necessary to
21 prevent needless injury to the reputation of a person and if such person
22 has not requested a public 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) For public hospitals, governing board peer review activities,
27 professional review activities, review and discussion of medical staff
28 investigations or disciplinary actions, and any strategy session
29 concerning transactional negotiations with any referral source that is
30 required by federal law to be conducted at arms length.

31 Nothing in this section shall permit a closed meeting for discussion

1 of the appointment or election of a new member to any public body.

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

19 (3) Any member of any public body shall have the right to challenge
20 the continuation of a closed session if the member determines that the
21 session has exceeded the reason stated in the original motion to hold a
22 closed session or if the member contends that the closed session is
23 neither clearly necessary for (a) the protection of the public interest
24 or (b) the prevention of needless injury to the reputation of an
25 individual. Such challenge shall be overruled only by a majority vote of
26 the members of the public body. Such challenge and its disposition shall
27 be recorded in the minutes.

28 (4) Nothing in this section shall be construed to require that any
29 meeting be closed to the public. No person or public body shall fail to
30 invite a portion of its members to a meeting, and no public body shall
31 designate itself a subcommittee of the whole body for the purpose of

1 circumventing the Open Meetings Act. No closed session, informal meeting,
2 chance meeting, social gathering, email, fax, or other electronic
3 communication shall be used for the purpose of circumventing the
4 requirements of the act.

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

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

12 Sec. 3. Since an emergency exists, this act takes effect when
13 passed and approved according to law.