Louisiana Open Meetings Law

Louisiana Department of Justice
Office of the Attorney General

Constitution

Article XII, Section 3, Louisiana Constitution (1974)
Right to Direct Participation

No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.

Revised Statutes

La. R.S. 42:11 Short title

This Chapter shall be known and may be cited as the "Open Meetings Law."

La. R.S. 42:12 Public policy for open meetings; liberal construction

A. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of R.S. 42:12 through 28 shall be construed liberally.

B. Further, to advance this policy, all public bodies shall post a copy of R.S. 42:12 through 28.

La. R.S. 42:13 Definitions

A. For the purposes of R.S. 42:12 through R.S. 42:28:

(1) "Meeting" means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) "Public body" means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or

administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph.

(3) "Quorum" means a simple majority of the total membership of a public body.

(4) "Consent Agenda" means a grouping of procedural or routine agenda items that can be approved with general discussion.

B. The provisions of R.S. 42:12 through R.S. 42:27 shall not apply to chance meetings or social gatherings of members of a public body at which there is no vote or other action taken, including formal or informal polling of the members.

La. Atty. Gen. Op. No. 10-0121: If a majority of members of the New Orleans City Council or a majority of members of a Committee of the Council, assembled informally, deliberate, act or receive information regarding matters which are or may come before the Council or that Committee, such a gathering is to be considered a "meeting" which must comply with the Open Meetings Law. However, if a majority of the Council or a Committee meet by chance or gather at a social function, as long as there is no deliberation, action or information received concerning a matter over which the Council or Committee has "supervision, control, jurisdiction, or advisory power," such a gathering is not subject to the Open Meetings Law.

La. Atty. Gen. Op. No. 09-0197: An ad hoc committee formed by the Chairman of the St. Tammany Parish Council which possesses an advisory function is subject to the requirements of the Open Meetings Law.

La. Atty. Gen. Op. No. 93-0315: A private session of a quorum of a city council held to discuss "goal seeking" efforts of the municipality would be violative of the Open Meetings Laws.

La. Atty. Gen. Op. No. 87-0048: A meeting, as defined in the Open Meetings Laws, includes gatherings to discuss or act, and the fact that no binding action is taken or intended will not remove a meeting from the requirements of the Open Meetings Laws. Meetings held pursuant to prior notice of the intent to discuss official business must meet the requirements of the Open Meetings Laws.

La. Atty. Gen. Op. No. 84-0395: A "public body" includes any committee or subcommittee of a city governing authority, and the fact that a committee cannot make a final decision on a matter does not remove meetings of that committee from the ambit of the open meetings requirements. It was found, "In conclusion, a working committee of a municipality constitutes a public body when it meets to discuss matters over which it has authority or advisory power, even if the committee takes no binding action."

La. R.S. 42:14 Meetings of public bodies to be open to the public

A. Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:16, R.S. 42:17, or R.S. 42:18.

B. Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of R.S. 42:12 through R.S. 42:23.

C. All votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

D. Except school boards, which shall be subject to R.S. 42:15, each public body conducting a meeting which is subject to the notice requirements of R.S. 42:19(A) shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. The governing body may adopt reasonable rules, regulations, and restrictions regarding such comment period.

La. R.S. 42:15 School board meetings; public comment

A. Notwithstanding any other law to the contrary, each school board subject to the provisions of this Chapter, except as provided in Subsection B of this Section, shall allow public comment at any meeting of the school board prior to taking any vote. The comment period shall be for each agenda item and shall precede each agenda item.

B. The Orleans Parish School Board, at any meeting of the school board, shall provide an opportunity for public comment subject to reasonable rules, regulations, and restrictions as adopted by the school board.

C. For purposes of this Section, a comment period for all comments at the beginning of a meeting shall not suffice to meet the requirements of Subsection A or Subsection B of this Section.

La. R.S. 42:16 Executive Sessions

A public body may hold executive sessions upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to R.S. 42:19, of two-thirds of its constituent members present. An executive session shall be limited to matters allowed to be exempted from discussion at open meetings by R.S. 42:17; however, no final or binding action shall be taken during an executive session. The vote of each member on the question of holding such an executive session and the reason for holding such an executive session shall be recorded and entered into the minutes of the meeting. Nothing in this Section or R.S. 42:17 shall be construed to require that any meeting be closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of R.S. 42:12 through R.S. 42:23.

La. Atty. Gen. Op. No. 01-0468: Public bodies may convene executive sessions pursuant to R.S. 42:6 for the discussion of the character, professional competence, or physical or mental health of a person; strategy sessions or negotiations with respect to collective bargaining and/or prospective litigation; investigative proceedings regarding allegations of misconduct; etc. Please see the opinion so as to be advised of any other instances and the requirements associated with public bodies' authority to convene an executive session.

La. R.S. 42:17 Exceptions to open meetings

A. A public body may hold an executive session pursuant to R.S. 42:16 for one or more of the following reasons:

(1) Discussion of the character, professional competence, or physical or mental health of a person, provided that such person is notified in writing at least twenty-four hours before the meeting and that such person may require that such discussion be held at an open meeting. However, nothing in this Paragraph shall permit an executive session for discussion of the appointment of a person to a public body or, except as provided in R.S. 39:1592(C)(2)(c), for discussing the award of a public contract. In cases of extraordinary emergency, written notice to such person shall not be required; however, the public body shall give such notice as it deems appropriate and circumstances permit.

(2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public body.

(3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.

(4) Investigative proceedings regarding allegations of misconduct.

(5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

(6) Any meeting of the State Mineral Board at which records or matters entitled to confidential status by existing law are required to be considered or discussed by the board with its staff or with any employee or other individual, firm, or corporation to whom such records or matters are confidential in their nature, and are disclosed to and accepted by the board subject to such privilege, for the exclusive use in evaluating lease bids or development covering state-owned lands and water bottoms, which exception is provided pursuant to and consistently with the Public Records Act, being Chapter I of Title 44 of the Louisiana Revised Statutes of 1950, as amended, and other such statutes to which the board is subject.

(7) Discussions between a city or parish school board and individual students or the parents or tutors of such students, or both, who are within the jurisdiction of the respective school system, regarding problems of such students or their parents or tutors; provided however that any such parent, tutor, or student may require that such discussions be held in an open meeting.

(8) Presentations and discussions at meetings of civil service boards of test questions, answers, and papers produced and exhibited by the office of the state examiner, municipal fire and police civil service, pursuant to R.S. 33:2492 or 2552.

(9) The portion of any meeting of the Second Injury Board during which records or matters regarding the settlement of a workers' compensation claim are required to be

considered or discussed by the board with its staff in order to grant prior written approval as required by R.S. 23:1378(A)(8).

(10) Or any other matters now provided for or as may be provided for by the legislature.

B. The provisions of R.S. 42:12 through R.S. 42:27 shall not apply to judicial proceedings.

C. The provisions of R.S. 42:12 through R.S. 42:27 shall not prohibit the removal of any person or persons who willfully disrupt a meeting to the extent that orderly conduct of the meeting is seriously compromised.

D. The provisions of R.S. 42:19 and R.S. 42:20 shall not apply to any meeting of a private citizens' advisory group or a private citizens' advisory committee established by a public body, when the members of such group or committee do not receive any compensation and serve only in an advisory capacity, except textbook advisory committees of the State Department of Education or the Board of Elementary and Secondary Education. However, all other provisions contained in R.S. 42:12 through 42:27 shall be applicable to such group or committee and the public body which established such group or committee shall comply with the provisions of R.S. 42:19 in providing the required notice of meetings of such group or committee.

La. Atty. Gen. Op. No. 09-0048: Minutes from an executive session properly conducted under the Open Meetings Law (La. R.S. 42:6 and 42:6.1) and the Enhanced Ability to Compete Act (La. R.S. 46:1073) are confidential, and not required to be disclosed under the Public Records Act (La. R.S. 44:1 et seq.).

La. Atty. Gen. Op. No. 03-0124: LSU may conduct investigations of alleged fraudulent conduct in an executive session.

La. R.S. 42:18 **Executive or closed meetings of legislative houses and committees**

A. Notwithstanding any contrary provision of R.S. 42:16 and R.S. 42:17, executive or closed meetings may be held by the legislature, either house thereof, or any committee or subcommittee of either house, upon the affirmative vote of at least a majority of the members of the house or the committee or subcommittee thereof making the determination to hold such meeting, for one or more of the following purposes:

(1) Discussion of confidential communications.

(2) Discussion of the character, professional competence, or physical or mental health of any person subject to contract with or to employment, election, or appointment or confirmation of appointment by either house of the legislature or any committee or subcommittee of either or by any other public body.

(3) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the legislature, either house thereof, or any committee or subcommittee of either house.

(4) Discussion regarding a report, development, or course of action regarding security personnel, plans, or devices.

(5) Investigations by the legislature, either house thereof, or by any committee or subcommittee thereof, including the Legislative Audit Advisory Council or any other joint or statutory committee, whenever reasonable grounds exist to believe that the testimony to be elicited will reflect a failure of compliance with law.

(6) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

(7) Discussion by either house of the legislature, or any committee or subcommittee thereof, of any matter affecting the internal operations or management of the body.

(8) Any other matters provided by law or pursuant to the joint rules of the legislature.

B. All procedural matters pertaining to the necessity, purposes, or reasons for the holding of executive or closed meetings under the provisions of this Section shall be in accordance with such rules as are adopted by each of the houses of the legislature for the purpose.

C. The provisions of R.S. 42:12 through R.S. 42:27 shall not apply to chance meetings, social gatherings, or other gatherings at which only presentations are made to members of the legislature or members of either house thereof or of any committee or subcommittee if no vote or other action, including formal or informal polling of members, is taken.

La. R.S. 42:19 Notice of meetings

A. (1)(a) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of their regular meetings, if established by law, resolution, or ordinance, at the beginning of each calendar year. Such notice shall include the dates, times, and places of such meetings.

(b)(i) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours before the meeting.

(ii)(aa) Such notice shall include the agenda, date, time, and place of the meeting. The agenda shall not be changed less than twenty-four hours prior to the meeting.

(bb) Each item on the agenda shall be listed separately and described with reasonable specificity. Before the public body may take any action on an item, the presiding officer or his designee shall read aloud the description of the item except as otherwise provided in Subitem (dd) of this item.

(cc) Upon unanimous approval of the members present at a meeting of a public body, the public body may take up a matter not on the agenda. Any such matter shall be identified

in the motion to take up the matter not on the agenda with reasonable specificity, including the purpose for the addition to the agenda, and entered into the minutes of the meeting. Prior to any vote on the motion to take up a matter not on the agenda by the public body, there shall be an opportunity for public comment on any such motion in accordance with R.S. 42:14 or 15. The public body shall not use its authority to take up a matter not on the agenda as a subterfuge to defeat the purposes of R.S. 42:12 through 23.

(dd) If an agenda of a meeting of a governing authority of a parish with a population of two hundred thousand or more according to the latest federal decennial census or municipality with a population of one hundred thousand or more according to the latest federal decennial census contains more than fifty items, the governing authority may take action on items listed on a consent agenda without reading the description of each item aloud. However, before any action is taken on items listed on a consent agenda, the governing authority shall allow for a public comment period. Any item listed on a consent agenda may be removed from the consent agenda by an individual member of the governing authority if a person objects to the presence of the item on the consent agenda and provides reasons for individual discussion at the meeting. The name of the person who objects to a consent agenda item and the reasons for the objection shall be included in the minutes of the meeting.

(iii) Following the above information there shall also be attached to the written public notice of the meeting, whether or not such matters will be discussed in an executive session held pursuant to R.S. 42:17(A)(2):

(aa) A statement identifying the court, case number, and the parties relative to any pending litigation to be considered at the meeting.

(bb) A statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation for which formal written demand has been made that is to be considered at the meeting.

(iv) In cases of extraordinary emergency, such notice shall not be required; however, the public body shall give such notice of the meeting as it deems appropriate and circumstances permit.

(2) Written public notice given by all public bodies, except the legislature and its committees and subcommittees, shall include, but need not be limited to:

(a) Posting a copy of the notice at the principle office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held; or by publication of the notice in an official journal of the public body no less than twenty-four hours before the meeting. If the public body has a website, additionally by providing notice via the Internet on the website of the public body for no less than twenty-four hours immediately preceding the meeting. The failure to timely post notice via the Internet pursuant to this Subparagraph or the inability of the public to access the public body's website due to any type of technological failure shall not be a violation of the provisions of this Chapter.

(b) Mailing a copy of the notice to any member of the news media who requests notice of such meetings; any such member of the news media shall be given notice of all meetings in the same manner as is given to members of the public body.

B. Reasonable public notice of day to day sessions of either house of the legislature, and of all matters pertaining to such meetings, including but not necessarily restricted to the content of notices, quorums for the transaction of business, proxy voting, viva-voce votes, and recordation of votes, shall be governed by the provisions of the Louisiana Constitution, the rules of procedure of the Senate and the House of Representatives, and the Joint Rules applicable to both houses. Reasonable public notice of meetings of legislative committees and subcommittees shall be given in accordance with such rules as are adopted by the respective houses for the purpose.

La. Atty. Gen. Op. No. 10-0094: In order for a public body to amend the agenda, such a motion requires the unanimous approval of all members physically present in the meeting room, even if a member is temporarily absent from the meeting room. The Chairperson has the discretion to determine whether it is appropriate to entertain the motion to amend before or after the temporarily absent board member returns.

La. Atty. Gen. Op. No. 09-0037: It is proper for "financial matters" to be placed on the Sabine Parish School Board's consent agenda, if such matters are routine or non-controversial. If a member of the public body determines that any item on the consent agenda requires discussion, then the item must be treated as a typical agenda item, allowing for debate and a separate vote.

La. Atty. Gen. Op. No. 09-0300: Concerns about publication of unofficial meeting minutes pursuant to La. R.S. 43:144 do not outweigh the public's interest in timely notice of actions taken at the meeting, since any corrections to the minutes made at a later meeting would appear in the minutes of the later meeting. The ten-day time limit set forth in La. R.S. 43:144 does not apply to the publication of minutes of meetings of the Board of Directors of the Jackson Parish Ambulance Service District.

La. R.S. 42:20 Written minutes

A. All public bodies shall keep written minutes of all of their open meetings. The minutes to be kept by the legislature and legislative committees and subcommittees shall be governed by the provisions of R.S. 42:21. The minutes of all other public bodies shall include but need not be limited to:

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

(2) The members of the public body recorded as either present or absent.

(3) The substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken.

(4) Any other information that the public body requests be included or reflected in the minutes.

B. The minutes shall be public records and shall be available within a reasonable time after the meeting, except where such disclosures would be inconsistent with R.S. 42:16, R.S. 42:17, and R.S. 42:18, or rules adopted under the provisions of R.S. 42:21.

La. Atty. Gen. Op. No. 04-0317: A Type 2 charter school is not subject to the mandates set forth in Title 43, Chapter 4 of the Louisiana Revised Statutes requiring the publication of minutes, unless a school's approved charter subjects the school to such publication requirements.

La. Atty. Gen. Op. No. 92-0847 points out that the minutes must, at the least, reflect the date, time, and place of the meeting, the presence or absence of district members, substantive matters discussed and any votes taken, and any other information that district members request be reflected in the minutes.

La. R.S. 42:21 **Minutes of legislative sessions, legislative committees and subcommittees**

A. The journals of the proceedings of each of the houses of the legislature, as required to be kept by the provisions of Article III, Section 10(B) of the Louisiana Constitution, shall constitute the written minutes of open sessions of the Senate and of the House of Representatives.

B. The written minutes of standing, interim, joint, and other committees and subcommittees of the Senate and House of Representatives shall include such information as may be required by the rules of the respective houses.

La. R.S. 42:22 **Presentation and consideration of offer to sell natural gas to a public body, or to operate or acquire ownership of, a gas utility owned or operated by a public body**

A. For the purposes of this Section, "gas utility" means any revenue producing business or organization which is owned or operated by a public body, and which regularly supplies the public with natural gas at retail.

B. Prior to consideration or action by a public body to accept a proposal by a nonpublic entity to sell natural gas to a public body for use in its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions, or to assume operation or acquire ownership of, a gas utility being operated or owned by the public body, the proposal shall:

(1) Be introduced, in writing, at an open meeting of the public body.

(2) Not be considered by the public body until notice of the proposal has been published in the official journal of the public body and at least thirty days has lapsed after the introduction of the proposal.

(3) Include a written report of the most recent five year history of the sale of natural gas to similar public bodies for use in gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions by the nonpublic entity

if the entity is seeking to sell natural gas to a public body for use in its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions to the public body or a five-year history of the purchase price of other gas utilities operated or owned by a public body paid by the nonpublic entity if the entity is seeking to assume operation or acquire ownership of the utility. A copy of the report shall be provided to all members of the public body and be available to the public.

(4) Include any written contract or agreement proposed between the nonpublic entity seeking to sell natural gas to a public body for use in its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions to, or assume operation or acquire ownership of, the gas utility and the public body. A copy of the contract or agreement shall be provided to all members of the public body and be available to the public.

C. Notice of the proposal and the availability of the written report and contract or agreement shall be published once in the official journal of the public body. The notice shall indicate the time and place where the public body will hold a public hearing and consider the proposal.

D. No proposal shall be considered until a public hearing on it has been held. No proposal can be adopted at the meeting at which it is introduced.

E. Any proposed revision or amendment of the published contract or agreement shall be noticed, published, and made available in its entirety in the same manner as required for the original contract or agreement. No such contract or agreement shall be entered into by the public body until at least thirty days have lapsed since the notice of the availability of the revised contract or agreement has been published.

La. Atty. Gen. Op. No. 05-0341: A town may sell its natural gas system to a public or non-public entity; the sale or lease of gas utilities encompass and incorporate the protections codified in the public bid law.

La. R.S. 42:23 Sonic and video recordings; live broadcast

A. All of the proceedings in a public meeting may be video or tape recorded, filmed, or broadcast live. However, any nonelected board or commission that has the authority to levy a tax shall video or audio record, film, or broadcast live all proceedings in a public meeting.

B. A public body shall establish standards for the use of lighting, recording or broadcasting equipment to insure proper decorum in a public meeting.

La. Atty. Gen. Op. No. 05-0166: A Fire District's video and audio recordings produced by security cameras are subject to a public records request. However, recordings of an executive session are covered within the exceptions of public records.

La. Atty. Gen. Op. No. 95-0277: Under R.S. 42:8 there is a general right for a citizen to record public meetings, but the public body is mandated to establish standards so this can be done in an orderly fashion.

La. R.S. 42:24 Voidability

Any action taken in violation of R.S. 42:12 through R.S. 42:23 shall be voidable by a court of competent jurisdiction. A suit to void any action must be commenced within sixty days of the action.

La. R.S. 42:25 Enforcement

A. The attorney general shall enforce the provisions of R.S. 42:12 through R.S. 42:23 throughout the state. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint filed with him by any person, unless written reasons are given as to why the suit should not be filed.

B. Each district attorney shall enforce the provisions of R.S. 42:12 through R.S. 42:23 throughout the judicial district within which he serves. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint filed with him by any person, unless written reasons are given as to why the suit should not be filed.

C. Any person who has been denied any right conferred by the provisions of R.S. 42:12 through R.S. 42:23 or who has reason to believe that the provisions of R.S. 42:12 through R.S. 42:23 have been violated may institute enforcement proceedings.

La. R.S. 42:26 Remedies; jurisdiction; authority; attorney fees

A. In any enforcement proceeding the plaintiff may seek and the court may grant any or all of the following forms of relief:

(1) A writ of mandamus.

(2) Injunctive relief.

(3) Declaratory judgment.

(4) Judgment rendering the action void as provided in R.S. 42:24.

(5) Judgment awarding civil penalties as provided in R.S. 42:28.

B. In any enforcement proceeding the court has jurisdiction and authority to issue all necessary orders to require compliance with, or to prevent noncompliance with, or to declare the rights of parties under the provisions of R.S. 42:12 through R.S. 42:27. Any noncompliance with the orders of the court may be punished as contempt of court.

C. If a person who brings an enforcement proceeding prevails, he shall be awarded reasonable attorney fees and other costs of litigation. If such person prevails in part, the court may award him reasonable attorney fees or an appropriate portion thereof. If the

court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the prevailing party.

Courvelle v. Louisiana Recreational and Used Motor Vehicle Commission, 08-0952 (La.App. 1 Cir. 9/19/09), 21 So.3d 340. Recreational and Used Motor Vehicle Commission's stated reasons for entering into executive session, which were to discuss noticed "legal matters" and "a sensitive matter" were not of sufficient specificity to demonstrate how a public discussion of pending litigation would be detrimental and thus violated the Open Meetings Law.

La. R.S. 42:27 Venue; summary proceedings

A. Enforcement proceedings shall be instituted in the district court for the parish in which the meeting took place or will take place.

B. Enforcement proceedings shall be tried by preference and in a summary manner. Any appellate court to which the proceeding is brought shall place it on its preferential docket, shall hear it without delay, and shall render a decision as soon as practicable.

La. R.S. 42:28 Civil penalties

Any member of a public body who knowingly and wilfully [sic] participates in a meeting conducted in violation of R.S. 42:12 through R.S. 42:23, shall be subject to a civil penalty not to exceed one hundred dollars per violation. The member shall be personally liable for the payment of such penalty. A suit to collect such penalty must be instituted within sixty days of the violation.

La. Atty. Gen. Op. No. 94-547: Any member of a public body who knowingly and willfully participates in a meeting conducted in violation of R.S. 42:4.1 through R.S. 42:8, shall be subject to a civil penalty not to exceed one hundred dollars per violation. The member shall be personally liable for the payment of such penalty. A suit to collect such penalty must be instituted within sixty days of the violation.

FREQUENTLY ASKED ABOUT TOPICS

ELECTRONIC COMMUNICATION

La. Atty. Gen. Op. No. 12-0177: Without additional facts suggesting an intent to circumvent the Open Meetings Law and without inviting a discussion on the content of the material sent, the following is permissible behavior under the Open Meetings Law: (1) a council member relaying an opinion to other council members via e-mail about a topic which may later be discussed by the public body as a whole; (2) a council member forwarding requests, information, or opinions received from constituents to other council members on a topic which may later come before the public body; and (3) a council member forwarding a request received from a constituent requesting that council member to take action on a particular matter to other council members. The Open Meetings Law prohibits questioning a majority of a public body on how each member intends to vote, whether such an inquiry is called a poll or not. A "rolling quorum" or a "walking quorum" refers to a device used to circumvent the Open Meetings Law so as to allow a quorum of a public body to discuss an issue through the use of multiple discussions of less than a quorum. Such a device is not permissible under the Open Meetings Law.

La. Atty. Gen. Op. No. 10-0223: Electronic communication during a public meeting between members of a public body and constituents, staff and/or another member of a public body is not, in and of itself, a violation of the Open Meetings Law. However, the analysis of a potential Open Meetings Law violation is much different when considering electronic communication between a quorum of members of a public body during a public meeting.

PROXY VOTING / PARTICIPATION BY TELEPHONE / POLLING

La. Atty. Gen. Op. No. 13-0075: A public body may not utilize telephone conference calls during a public meeting to obtain a quorum.

La. Atty. Gen. Op. No. 10-0055: Since the legislation creating the Natchitoches Parish Tourist Commission does not specifically authorize the use of proxy voting, the general prohibition against proxy voting in La. R.S. 42:5(B) applies.

La. Atty. Gen. Op. No. 09-0149: A parish executive committee may adopt any rules and bylaws that of the state central committee, insofar as they do not conflict with state law. In addition, since state law does not expressly authorize proxy voting by email, any proxy vote by email should not be accepted.

La. Atty. Gen. Op. No. 02-0106: The intent of La. R.S. 42:5(B) is to require physical presence at open meetings in order to participate in any matter. Any participation via telephone, whether it is to obtain a quorum or to allow voting by non-present board members is a violation of the open meetings law.

La. Atty. Gen. Op. No. 99-385: Deliberation or action by video telephone would be a violation of the open meetings laws.

La. Atty. Gen. Op. No. 99-0034: If a quorum of the Council or a committee thereof contacts each other by telephone for the purpose of discussing or deciding on a course of action on a matter over which it has authority, this would be considered a circumvention of the open meetings laws.

La. Atty. Gen. Op. No. 93-137: The Open Meetings Law prohibits representation by proxy. Further, telephone polls cannot be used to authorize action by a public body. Finally, the remedy of mandamus may be available to compel attendance of commission members. Attendance at meetings is not a discretionary duty, but is rather a duty purely ministerial in nature, for which the action of mandamus is appropriate.

La. Atty. Gen. Op. No. 92-166: The Slidell Ethics Board is a public body within the meaning of Louisiana's Open Meetings Law; telephone contact between a majority of the members of the Board in order to determine policy or a course action would constitute a violation of the Open Meetings Law.

La. Atty. Gen. Op. No. 88-238: A telephone poll cannot be used to authorize action by a board and results in a violation of the open meetings law.

La. Atty. Gen. Op. No. 78-1017: A telephone poll of members of a school board to discuss the employment and compensation of special counsel is prohibited by the Louisiana Open Meeting Law.

"PRE-MEETING"

La. Atty. Gen. Op. No. 01-243: "Agenda planning meetings" conducted by the Amite Town Council do not violate open meetings laws as proper notice is provided before each meeting.

La. Atty. Gen. Op. No. 87-48: "Pre-meeting" was subject to provisions Open Meeting Law.

La. Atty. Gen. Op. No. 80-939: Pre-meeting must comply with Sunshine Law.

PUBLIC COMMENT

La. Atty. Gen. Op. No. 08-0325: Although the Mayor has the power to preside over meetings of the Board of Aldermen, the Board may adopt rules for participation in meetings. Additionally, if the Board unanimously votes to add an item not on the agenda for discussion, the Mayor cannot prohibit the members from discussing such item. Although a citizen has the right to give public comment at a public meeting, there is no requirement that the citizen be allowed to add items to the agenda for discussion.

La. Atty. Gen. Op. No. 04-0107: La. R.S. 42:5.1 does not preclude a school board from placing requirements on individuals that desire to speak such as filling out a sign-up card before a school board meeting, limiting the speaker to the agenda item on which he would like to speak, limiting the amount of time for each speaker, and/or restricting speakers from making defamatory or accusatory comments.

La. Atty. Gen. Op. No. 01-0394: Public bodies conducting a meeting shall provide by adoption of reasonable rules for opportunity for public comment at the meeting.

La. Atty. Gen. Op. No. 01-0367: The comment period established by La. R.S. 42:5(D) applies only to items placed on the agenda, and the rules and regulations governing this period are to be established by each public body.

La. Atty. Gen. Op. No. 98-17: La. R.S. 42:5.1 does not preclude a school board from placing requirements on individuals that desire to speak such as filling out a sign-up card before a meeting.

La. Atty. Gen. Op. No. 94-152: The mayor of the City of Ville Platte may require the use of an agenda Application form for public participation in setting the agenda of the City's Board of Aldermen.

INTERVIEWS

La. Atty. Gen. Op. No. 94-14: It is not proper to go into executive session to make a selection or recommendation concerning hiring a town employee. Public meetings may be tape recorded.

La. Atty. Gen. Op. No. 91-158A: The vote of a School Board selecting an interview committee, and any decision, selection or recommendation of or concerning a job applicant or prospective employee by the School Board, or its committee, must be taken in an open meeting; however, discussion of the character or mental health of a person, including a job applicant or a prospective employee, and the interviewing of such person may be done in executive session.

La. Atty. Gen. Op. No. 88-186: Screening meetings and interview sessions of candidates for State Superintendent of Education may be held in executive session under La. R.S. 42:6.1 but should be limited to discussion of applicant's professional competence, character of health.

ATTENDANCE IN AN EXECUTIVE SESSION

La. Atty. Gen. Op. No. 99-51: The school board may call an executive session for discussions and strategies in the lawsuit at issue. No public disclosure is required of these discussions and strategies held in executive session. Non members may be permitted into an executive session of a public body if there presence is necessary and not a subterfuge to the open meetings laws.

La. Atty. Gen. Op. No. 93-233: A public body may permit anyone to attend an executive session if that person's presence is necessary and if the executive session is not being used as a subterfuge to defeat the purposes of the Louisiana Open Meetings Law.

La. Atty. Gen. Op. No. 87-639: A public body may exclude any non-members from an executive session, unless their attendance is required by law or necessity.

AGENDA ITEM DESCRIPTIONS

La. Atty. Gen. Op. No. 11-0275: Agenda items on a meeting notice of a public body must be reasonably clear so as to advise the public in general terms of the subjects which will be discussed. A council member serving as mayor pro tempore does not lose his or her

ability to vote, and may cast votes for or against items on the agenda. Further, the mayor pro tempore may make or second a motion on the agenda. A quorum exists in a municipality of five council members when three members are in attendance, with one serving as the mayor pro tempore. Finally, two-thirds of a five member council is four members.

La. Atty. Gen. Op. No. 07-0181: Agenda for police jury meeting must be reasonably clear so that the general public could ascertain that the removal and reappointment of a hospital service district board member would be considered. Actions by the police jury taken in absenceof this requirement are voidable by a court of competent jurisdiction within sixty days of the action.

La. Atty. Gen. Op. No. 85-0789: All special meetings must be convened following twenty-four hour notice. The notice given must state an agenda. This agenda must also state with specificity what matters are to be discussed. Merely stating that "the Board will consider any emergency matters which may be presented by the Superintendent and/or board members," is vague and, thus, not proper notice. The notice must be specific as to what matters will be discussed.

MEMBERS OF A PUBLIC BODY ATTENDING MEETINGS AS CITIZENS

La. Atty. Gen. Op. No. 11-0267: Members of the Commission who are not members of a subcommittee of the Commission may attend subcommittee meetings and participate in their capacity as citizens, but such participation must be limited to providing comment as is available to any other member of the public, as described by La. R.S. 42:14(D). However, as a cautionary measure, whenever it is likely that a quorum of the Commission will attend a subcommittee meeting, we recommend that the posted notice of the subcommittee meetings include a statement providing that it is possible that a quorum of the Commission may be in attendance at such meeting, but that no action of the Commission as a whole will be taken.

La. Atty. Gen. Op. No. 08-0239: Whether or not a quorum of the public body could be said to be "convening" for the purposes of the Open Meetings Law at a Town Hall Meeting requires an assessment of the particular facts relevant to the particular situation, taking into account the instruction to interpret the Open Meetings Law liberally, and the public policy underlying such a body of law.

La. Atty. Gen. Op. No. 99-215: A parish councilman who is not a memeber of a committee may attend that committee's meetings as an observer, as long as he does not take part in any deliberations or discussions of the committee.

REVISITING AN ISSUE

La. Atty. Gen. Op. No. 11-0034: Failure to pass an ordinance at the Council's December meeting does not prohibit a majority of the Council from voting to introduce the ordinance again at the January meeting, and then adopting the ordinance by a majority vote at the Council's subsequent meeting.

MEMBER QUALIFICATION

La. Atty. Gen. Op. No. 12-0068: A member of the Board of Directors of the Louisiana Energy & Power Authority whose term has expired and whose successor has not been reappointed continues to serve until his or her successor is appointed, retains his or her voting rights as a director, and is still counted toward the total membership of the public body for purposes of calculating a quorum.

La. Atty. Gen. Op. No. 08-0014: Members of a board shall continue to serve, despite the fact that the statute determining their qualifications has been amended, when their successors have not yet been named. When a member has been appointed pursuant to a statutory provision that has been repealed, that member should no longer continue to serve.

MATTERS WITHIN MEETINGS

La. Atty. Gen. Op. No. 13-0046: The mayor of a Lawrason Act community may not refuse to hold a special meeting which has been called for by a majority of the board of aldermen.

La. Atty. Gen. Op. No. 10-0066: The motion to introduce the ordinance to amend the 2010 Budget, which came before the Council for the Parish of Terrebonne on February 10, 2010, was properly done.

La. Atty. Gen. Op. No. 09-0172: The Chairman of the St. Charles Parish Council has the right to make a motion at Council meetings.

La. Atty. Gen. Op. No. 08-0325: Although the Mayor has the power to preside over meetings of the Board of Aldermen, the Board may adopt rules for participation in meetings. Additionally, if the Board unanimously votes to add an item not on the agenda for discussion, the Mayor cannot prohibit them from discussing such item. Although a citizen has the right to give public comment at a public meeting, there is no requirement that the citizen be allowed to add items to the agenda for discussion.