

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 266**

Introduced by Sullivan, 41; Brasch, 16.

Read first time January 11, 2011

Committee: Government, Military and Veterans Affairs

A BILL

- 1 FOR AN ACT relating to the Open Meetings Act; to amend section
- 2 84-1410, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to closed sessions; 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  
2 Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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