

**WISCONSIN OPEN MEETINGS LAW  
PROPOSED STATUTORY REVISIONS**

**19.81 Declaration of policy.** (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

**19.82 Definitions.** As used in this subchapter:

(1) “Governmental body” means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district under s. 46.2895; any corporation created by a political subdivision under this subchapter if it accepts any public funds from a public body; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV or V of ch. 111.

(2) “Meeting” means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more a majority of a quorum of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in s. 101.13 (1).

**19.83 Meetings of governmental bodies.** (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) Each governmental body shall provide an opportunity for public comment at meetings. Public comment shall be subject only to time, place and manner restrictions. During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.

(3) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(4) All governmental bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(a) the date, time and place of the meeting;

(b) the members of the governmental body recorded as either present or absent; and

(c) a detailed summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(5) A governmental body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The governmental body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the governmental body. The minutes need only reflect the general subject matter of discussions in closed sessions authorized under section 1985.

(6) The verbatim record shall be preserved for two years, subject to the following conditions. If an action is brought claiming that public business not covered by a closed meeting exemption was transacted at a closed meeting held pursuant to this section during the time when the tape is not available to the public, the court shall review the recording of the meeting in camera. If the court finds that this section was not violated, the action shall be dismissed and the recording shall be sealed and preserved in the records of the court until otherwise made available to the public pursuant to this section. If the court finds that this section was violated, the recording may be introduced at trial in its entirety subject to any protective orders as requested by either party and deemed appropriate by the court.

(7) Each governmental body shall meet on no less than a monthly basis to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection.

**19.84 Public notice.** (1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area.

(c) A public notice for a governmental body shall always be posted at its principal office and any other locations considered appropriate by the public body. At least one copy of the notice must be posted outside the building so that members of the public have access to the notice if the office or building is closed. In addition, a public body that has a website that the full-time staff of the public body maintains shall post notice on its website of all meetings of the governing body of the public body. Any notice of an annual schedule of meetings shall remain on the website until a new public notice of the schedule of regular meetings is approved. Any notice of a regular meeting that is posted on a public body's website shall remain posted on the website until the regular meeting is concluded.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. ~~The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.~~

(3) Public notice of every meeting of a governmental body shall be given at least ~~24-48~~ hours prior to the commencement of such meeting ~~unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.~~ A governmental body that has a website that the full-time staff of the governmental body maintains shall also post on its website the agenda of any regular meetings of the governing body of that governmental body. Any agenda of a regular meeting that is posted on a governmental body's website shall remain posted on the website until the regular meeting is concluded. Agendas must include sufficient detail to reasonably inform the public regarding what matters shall be discussed and what actions shall be taken.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any University of Wisconsin System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

**19.85 Exemptions.** (1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) Except as provided in s. 304.06 (1) (eg) and by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded.

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employee members of the council are excluded.

(em) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Only verbal or written notice of potential litigation satisfies the requirement that the governmental body is or is likely to become involved in litigation.

(h) Consideration of requests for confidential written advice from the government accountability board under s. 5.05 (6a), or from any county or municipal ethics board under s. 19.59 (5).

(i) Considering any and all matters related to acts by businesses under s. 560.15 which, if discussed in public, could adversely affect the business, its employees or former employees.

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV or V of ch. 111 which has been negotiated by such body or on its behalf.

**19.851 Closed sessions by government accountability board.** The government accountability board shall hold each meeting of the board for the purpose of deliberating concerning an

investigation of any violation of the law under the jurisdiction of the ethics and accountability division of the board in closed session under this section. Prior to convening under this section, the government accountability board shall vote to convene in closed session in the manner provided in s. 19.85 (1). No business may be conducted by the government accountability board at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).

**19.86 Notice of collective bargaining negotiations.** Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. I, IV or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given by the employer's chief officer or such person's designee.

**19.87 Legislative meetings.** This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

(4) Meetings of the senate or assembly committee on organization under s. 71.78 (4) (c) or 77.61 (5) (b) 3. shall be closed to the public.

**19.88 Ballots, votes and records.** (1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in subch. II of ch. 19.

**19.89 Exclusion of members.** No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

**19.90 Use of equipment in open session.** Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that substantially interferes with the conduct of the meeting or the rights of the participants. The governmental body holding the meeting must allow any person to use the electrical outlet for recording and/or filming purposes within fifteen minutes prior to the start of the meeting, during the meeting and for fifteen minutes after the meeting to record the proceedings, may not charge any cost for the use of the outlet and may not require that the individual using the outlet physically attend the meeting to record and/or film the meeting.

**19.96 Penalty. (1)** Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$10025 nor more than \$31,000 for each such violation, which may not be paid by the governmental body. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

(2) Criminal charges may be brought under this subchapter by the attorney general or the district attorney of any county wherein a violation may occur. A public official who intentionally violates this subchapter is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, which may not be paid by the public body.

(3) If a person has been found to have intentionally violated this subchapter in three or more actions brought under this subchapter involving the same governing body, such person shall forfeit any further right to serve on such governing body or in any other capacity with such governmental body for a period of time equal to the term of office such person was then serving. The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations, issue its order declaring the position vacant and notify the appointing authority or clerk of the governing body. As soon as practicable thereafter, the appointing authority or the governing body shall fill the position as in the case of any other vacancy.

**19.97 Enforcement. (1)** This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

**(2)** In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought

under s. 19.96, to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. ~~However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.~~ In addition, the court shall have the jurisdiction to invalidate a final action taken at a closed session not in accordance with this subchapter. The court shall not have jurisdiction to invalidate a decision of a governmental body for a violation of this subchapter unless an action is commenced pursuant to this subchapter within 120 days after the approved minutes are made available to the public by the public body. The procedures set forth in Section 3 apply to invalidation of a final action. In any case where an action has been initiated to invalidate a decision of a governmental body on the ground that it was not taken in conformity with the requirements of this subchapter, the governmental body may not reenact the disputed decision in conformity with this subchapter in order to evade liability.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court ~~may~~ shall award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, ~~but any forfeiture recovered shall be paid to the state, regardless of whether the relator was represented by an attorney or represented himself or herself.~~

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

**19.975. Independent regulatory body.** Effective January 1, 2010, the legislative branch of the state government shall create an independent regulatory body in the office of the Office of the Attorney General with the power and authority to enforce this subchapter.

**19.977. Role of the Office of the Attorney General.** (1) The Office of the Attorney General serves the following purposes: offering education and training programs to government officials, the public and the media; answering questions concerning this subchapter; working to resolve disputes under this subchapter; and working to ensure compliance with the subchapter.

(2) In furtherance of those purposes, the Office of the Attorney General may, at its discretion, issue opinions regarding a governmental body's compliance with the subchapter.

(3) If there is a proceeding under section 19.97 of this subchapter and the Office of the Attorney General has previously issued an opinion requiring specific action but the public body refuses to comply within a reasonable time, upon motion of the plaintiff, the court may consider the authority's refusal willful and act in accordance with sections 19.96 or 19.97 of this subchapter.

**19.98 Interpretation by Office of the Attorney General.** Any person may request advice from the Office of the Attorney General as to the applicability of this subchapter under any circumstances.