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HOUSE BILL 279

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO INSURANCE; PROVIDING LIMITED EXEMPTION FROM THE  
OPEN MEETINGS ACT FOR INSURANCE NOMINATING COMMITTEE  
DISCUSSIONS OF THE SELECTION OR REMOVAL OF THE COMMITTEE CHAIR  
OR THE SUPERINTENDENT OF INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 10-15-1 NMSA 1978 (being Laws 1974,  
Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

A. In recognition of the fact that a representative  
government is dependent upon an informed electorate, it is  
declared to be public policy of this state that all persons are  
entitled to the greatest possible information regarding the  
affairs of government and the official acts of those officers

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1 and employees who represent them. The formation of public  
2 policy or the conduct of business by vote shall not be  
3 conducted in closed meeting. All meetings of any public body  
4 except the legislature and the courts shall be public meetings,  
5 and all persons so desiring shall be permitted to attend and  
6 listen to the deliberations and proceedings. Reasonable  
7 efforts shall be made to accommodate the use of audio and video  
8 recording devices.

9 B. All meetings of a quorum of members of any  
10 board, commission, administrative adjudicatory body or other  
11 policymaking body of any state agency or any agency or  
12 authority of any county, municipality, district or political  
13 subdivision, held for the purpose of formulating public policy,  
14 including the development of personnel policy, rules,  
15 regulations or ordinances, discussing public business or taking  
16 any action within the authority of or the delegated authority  
17 of any board, commission or other policymaking body are  
18 declared to be public meetings open to the public at all times,  
19 except as otherwise provided in the constitution of New Mexico  
20 or the Open Meetings Act. No public meeting once convened that  
21 is otherwise required to be open pursuant to the Open Meetings  
22 Act shall be closed or dissolved into small groups or  
23 committees for the purpose of permitting the closing of the  
24 meeting.

25 C. If otherwise allowed by law or rule of the

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1 public body, a member of a public body may participate in a  
2 meeting of the public body by means of a conference telephone  
3 or other similar communications equipment when it is otherwise  
4 difficult or impossible for the member to attend the meeting in  
5 person; provided that each member participating by conference  
6 telephone can be identified when speaking, all participants are  
7 able to hear each other at the same time and members of the  
8 public attending the meeting are able to hear any member of the  
9 public body who speaks during the meeting.

10 D. Any meetings at which the discussion or adoption  
11 of any proposed resolution, rule, regulation or formal action  
12 occurs and at which a majority or quorum of the body is in  
13 attendance, and any closed meetings, shall be held only after  
14 reasonable notice to the public. The affected body shall  
15 determine at least annually in a public meeting what notice for  
16 a public meeting is reasonable when applied to that body. That  
17 notice shall include broadcast stations licensed by the federal  
18 communications commission and newspapers of general circulation  
19 that have provided a written request for such notice.

20 E. A public body may recess and reconvene a meeting  
21 to a day subsequent to that stated in the meeting notice if,  
22 prior to recessing, the public body specifies the date, time  
23 and place for continuation of the meeting and, immediately  
24 following the recessed meeting, posts notice of the date, time  
25 and place for the reconvened meeting on or near the door of the

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1 place where the original meeting was held and in at least one  
2 other location appropriate to provide public notice of the  
3 continuation of the meeting. Only matters appearing on the  
4 agenda of the original meeting may be discussed at the  
5 reconvened meeting.

6 F. Meeting notices shall include an agenda  
7 containing a list of specific items of business to be discussed  
8 or transacted at the meeting or information on how the public  
9 may obtain a copy of such an agenda. Except in the case of an  
10 emergency or in the case of a public body that ordinarily meets  
11 more frequently than once per week, at least seventy-two hours  
12 prior to the meeting, the agenda shall be available to the  
13 public and posted on the public body's ~~[web site]~~ website, if  
14 one is maintained. A public body that ordinarily meets more  
15 frequently than once per week shall post a draft agenda at  
16 least seventy-two hours prior to the meeting and a final agenda  
17 at least thirty-six hours prior to the meeting. Except for  
18 emergency matters, a public body shall take action only on  
19 items appearing on the agenda. For purposes of this  
20 subsection, "emergency" refers to unforeseen circumstances  
21 that, if not addressed immediately by the public body, will  
22 likely result in injury or damage to persons or property or  
23 substantial financial loss to the public body. Within ten days  
24 of taking action on an emergency matter, the public body shall  
25 report to the attorney general's office the action taken and

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1 the circumstances creating the emergency; provided that the  
2 requirement to report to the attorney general is waived upon  
3 the declaration of a state or national emergency.

4 G. The board, commission or other policymaking body  
5 shall keep written minutes of all its meetings. The minutes  
6 shall include at a minimum the date, time and place of the  
7 meeting, the names of members in attendance and those absent,  
8 the substance of the proposals considered and a record of any  
9 decisions and votes taken that show how each member voted. All  
10 minutes are open to public inspection. Draft minutes shall be  
11 prepared within ten working days after the meeting and shall be  
12 approved, amended or disapproved at the next meeting where a  
13 quorum is present. Minutes shall not become official until  
14 approved by the policymaking body.

15 H. The provisions of Subsections A, B and G of this  
16 section do not apply to:

17 (1) meetings pertaining to issuance,  
18 suspension, renewal or revocation of a license, except that a  
19 hearing at which evidence is offered or rebutted shall be open.  
20 All final actions on the issuance, suspension, renewal or  
21 revocation of a license shall be taken at an open meeting;

22 (2) limited personnel matters; provided that  
23 for purposes of the Open Meetings Act, "limited personnel  
24 matters" means the discussion of hiring, promotion, demotion,  
25 dismissal, assignment or resignation of or the investigation or

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1 consideration of complaints or charges against any individual  
2 public employee; provided further that this paragraph is not to  
3 be construed as to exempt final actions on personnel from being  
4 taken at open public meetings, nor does it preclude an  
5 aggrieved public employee from demanding a public hearing.

6 Judicial candidates interviewed by any commission shall have  
7 the right to demand an open interview;

8 (3) deliberations by a public body in  
9 connection with an administrative adjudicatory proceeding. For  
10 purposes of this paragraph, "administrative adjudicatory  
11 proceeding" means a proceeding brought by or against a person  
12 before a public body in which individual legal rights, duties  
13 or privileges are required by law to be determined by the  
14 public body after an opportunity for a trial-type hearing.  
15 Except as otherwise provided in this section, the actual  
16 administrative adjudicatory proceeding at which evidence is  
17 offered or rebutted and any final action taken as a result of  
18 the proceeding shall occur in an open meeting;

19 (4) the discussion of personally identifiable  
20 information about any individual student, unless the student or  
21 the student's parent or guardian requests otherwise;

22 (5) meetings for the discussion of bargaining  
23 strategy preliminary to collective bargaining negotiations  
24 between the policymaking body and a bargaining unit  
25 representing the employees of that policymaking body and

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1 collective bargaining sessions at which the policymaking body  
2 and the representatives of the collective bargaining unit are  
3 present;

4 (6) that portion of meetings at which a  
5 decision concerning purchases in an amount exceeding two  
6 thousand five hundred dollars (\$2,500) that can be made only  
7 from one source is discussed and that portion of meetings at  
8 which the contents of competitive sealed proposals solicited  
9 pursuant to the Procurement Code are discussed during the  
10 contract negotiation process. The actual approval of purchase  
11 of the item or final action regarding the selection of a  
12 contractor shall be made in an open meeting;

13 (7) meetings subject to the attorney-client  
14 privilege pertaining to threatened or pending litigation in  
15 which the public body is or may become a participant;

16 (8) meetings for the discussion of the  
17 purchase, acquisition or disposal of real property or water  
18 rights by the public body;

19 (9) those portions of meetings of committees  
20 or boards of public hospitals where strategic and long-range  
21 business plans or trade secrets are discussed; ~~and~~

22 (10) that portion of a meeting of the gaming  
23 control board dealing with information made confidential  
24 pursuant to the provisions of the Gaming Control Act; and

25 (11) that portion of a meeting of the

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1 insurance nominating committee in which discussion is held on:

2 (a) applications for the position of the  
3 chair of the committee or on the selection or removal of the  
4 chair pursuant to Section 59A-2-2.1 NMSA 1978. A final action  
5 on the selection or removal of the chair shall be made in an  
6 open meeting; or

7 (b) applications for the position of  
8 superintendent of insurance or on the appointment or removal of  
9 the superintendent pursuant to Sections 59A-2-2 and 59A-2-2.1  
10 NMSA 1978. A final action on the appointment or removal of the  
11 superintendent shall be made in an open meeting.

12 I. If any meeting is closed pursuant to the  
13 exclusions contained in Subsection H of this section:

14 (1) the closure, if made in an open meeting,  
15 shall be approved by a majority vote of a quorum of the  
16 policymaking body; the authority for the closure and the  
17 subject to be discussed shall be stated with reasonable  
18 specificity in the motion calling for the vote on a closed  
19 meeting; the vote shall be taken in an open meeting; and the  
20 vote of each individual member shall be recorded in the  
21 minutes. Only those subjects announced or voted upon prior to  
22 closure by the policymaking body may be discussed in a closed  
23 meeting; or

24 (2) if a closure is called for when the  
25 policymaking body is not in an open meeting, the closed meeting

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1 shall not be held until public notice, appropriate under the  
2 circumstances, stating the specific provision of the law  
3 authorizing the closed meeting and stating with reasonable  
4 specificity the subject to be discussed, is given to the  
5 members and to the general public.

6 J. Following completion of any closed meeting, the  
7 minutes of the open meeting that was closed or the minutes of  
8 the next open meeting if the closed meeting was separately  
9 scheduled shall state that the matters discussed in the closed  
10 meeting were limited only to those specified in the motion for  
11 closure or in the notice of the separate closed meeting. This  
12 statement shall be approved by the public body under Subsection  
13 G of this section as part of the minutes."