

# Nevada's Open Meeting Law

*Making Public Bodies Transparent  
Since 1960!*

# What is it?

- The Open Meeting Law “OML” is a shorthand name for chapter 241 of the Nevada Revised Statutes which place certain requirements on Public Bodies.

# Why is it Necessary?

- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

# What is Covered?

- NRS 241.020(1) Except as otherwise provided by specific statute, **all meetings of public bodies** must be open and public, and all persons must be permitted to attend any meeting of these public bodies.

# Public Body?

- See also NRS 241.015(4):
  - A government body
  - 2 or more people,
  - supported by tax dollars
  - make collective decisions or recommendations
- AG's Manual states: "...to the extent that a group is appointed by a public body and is given the task of making decisions for or recommendations to the public body, the group would be governed by the Open Meeting Law."
- **This includes the Committee to administer the Deferred Compensation Program (NRS 287.325)**

# What about a Sub-committee?

- If a sub-committee **recommendation to a parent body** is more than **mere fact-finding** because the sub-committee has to choose or accept options, or decide to accept certain facts while rejecting others, or if it has to make any type of choice in order to create a recommendation, then it has participated in the decision-making process and is subject to the OML. (unless specifically exempted by statute.)
- OML Manual: section 3.04

# Meeting?

- NRS 241.015 (3): “The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.”
- Quorum + (Deliberation or Action)= Meeting

# Why is the OML Important?

- NRS 241.036 Action taken in violation of chapter void.
- NRS 241.040 Criminal and civil penalties;
- Attorney General has subpoena authority to investigate from NRS 241.039.

# How to avoid Violation

- **Enforcement against a member** of a public body based on “participation” may only occur when the member makes a commitment, promise, or casts an affirmative vote to take action on a matter under the public body’s jurisdiction or control **when the member knew** his/her commitment, promise, or vote was taken in violation of the OML.

# What Does it Require?

- A lot of things, but remember the spirit:
- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”
- Generally several components:
  - Agendas
  - Non-Meeting Conduct
  - Meetings
  - Public Access

# Agendas 101

- NRS 241.020(2)(d)(1): “A **clear and complete** statement of the topics scheduled to be considered during the meeting.”
- Agenda topics must be specific to alert the public to topics that will be discussed.
- Related matters to an agenda topic may not be discussed or the public body may have strayed from the agenda even if no vote is taken (OMLO 98-03)
- Items on which action may be taken must clearly denote that action may be taken. NRS 241.020(2)(d)(2)

# Non-Meetings 101

- OML does not prohibit every private discussion of a public issue by members of public body or even forbid lobbying for votes, but;
- ...a quorum must not be involved.
- But  $2 + 2 = 4$ : NRS 241.015(2)(a)(2)(II) “The members of the public body attending one or more of the gatherings collectively constitute a quorum.”
- Texting counts too: NRS 241.015(2)(a)(2)(I): “. . . whether in person or by means of electronic communication”

# Meetings 101

- Follow the Agenda
- NRS 241.020 (3) Comments by the general public must be taken:
  - (I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; **or**
  - (II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.
- This is the minimum, can allow additional comment

# Public Access 101

- NRS 241.020 (1) “[A]ll persons must be permitted to attend meeting.”
- Periods of public comment must be taken, but can be restricted
- All public comment restrictions must be on Agenda
  - Restrict public speakers to the subjects within its supervision, control, jurisdiction or advisory power;
  - Limit public comment if the “speech becomes irrelevant or repetitious.”
  - Apply reasonable time limitations (2 to 5 Minutes),
  - limit caustic personal attacks.
  - **But a public body can not limit public comment based disagreement with “viewpoint” of the speaker.**
- A person or persons who “willfully disrupts a meeting to the extent its orderly conduct has been made impractical” can be removed.

# Remember. . .

OPENNESS IS THE NORM,  
NOT THE EXCEPTION;

The OML is:

“...for the public benefit and should be liberally construed and broadly interpreted to promote openness in government.”

*Dewey v. Redevelopment Agency of City of Reno,  
119 Nev. 87, 94 (2003)*

# I Still Don't Understand

- AG's Open Meeting Law Manual  
(11<sup>th</sup> ed., June 2012)
- Statutory provisions
- Explanation of requirements
- Examples
- Compliance checklists
- Sample Forms: agenda, minutes and notice of meeting to consider a person's character, etc.
- **Available on the Attorney General's website at:  
[www.ag.state.nv.us/Open Meeting law](http://www.ag.state.nv.us/OpenMeetingLaw) (link)**

# Phone a Friend?

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# Ethics Introduction for Public Officers

# Ethics vs. Morals

- **Ethics** refer to rules provided by an external source, e.g., codes of conduct in workplaces or principles in religions.
- **Morals** refer to an individual's own principles regarding right and wrong.
- Public Officers Ethical Standards are given in NRS chapter 281A

# Who Do These Standards Apply to?

- Ethical Standards apply to Public Officers and Employees (NRS 281A.400, 150 and 160)
- “Public employee” means any person who performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision.
- “Public officer” means a person who is:
  - (a) Elected or appointed to a position which:
    - (1) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision;

# What Can't I Do?

- Don't use public office for private benefit (NRS 281A.400)
  - No gifts (subsection 1)
  - No assistance for affiliated businesses (subsection 2)
  - No negotiating self-interested contracts (subsection 3)
  - No private compensation for public duties (subsection 4)
  - No gaining from inside information (subsection 5)
  - No suppressing adverse information (subsection 6)
  - No using public time or equipment (subsection 7)
  - No forcing subordinates to do these things for you (subsection 9)
  - No soliciting private contracts or employment (subsection 10)

# What about Board Discussions and Voting?

- When you can't participate or vote at all (NRS 281A.420(1))
  - When you have accepted a gift or loan
  - When you have a pecuniary interest
  - When your vote would be affected by a private commitment (unless fully disclosed before participation).
- When you can't vote or advocate a position, but can participate (NRS 281A.420(3))
  - When a reasonable person might think your judgment could be affected by
    - The acceptance of a gift of loan
    - A significant pecuniary interest
    - A private commitment to a third party

# But I'm a Participant? Can I Vote on Anything?

- NRS 287.325(1)(c) requires Committee Members to be participants
- That participation does not require recusal but other interests could
- But remember your oath (NRS 282.020)
  - “...I will well and faithfully perform all the duties of the office...”
- And the Committee's Statutory Obligation (NRS 287.330(1)(b))
  - “... Act in such a manner as to promote the collective best interests of the participants in the Program.”
- And **willful** violation of ethical provisions can result in fines (NRS 281A.480)
  - Up to \$5,000 for a first offense

# I See a Lot of Grey Here

- The Commission on Ethics has a bank of opinions (NRS 281A.200)
  - <http://ethics.nv.gov/Opinions/>
- They also take requests for opinions (NRS 281.440(1))
  - Reply within 45 days
  - Opinion is binding on the requester
- Also feel free to call your lawyer (preferably before the meeting)