

Top 5 Things You Should Know about Louisiana's

OPEN MEETINGS LAW

1. That there is an Open Meetings Law
2. How a "meeting" is defined
3. How to give the public notice of the meeting
4. How to run a public meeting
5. Consequences of non-compliance

1. **There is an Open Meetings Law**

- a. Louisiana's Constitution provides in Art. XII, Section 3 that "no person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law."
- b. The Open Meetings Laws are found at La. R.S. 42:4.1 – 42:13, which provide the policy statement, "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..."
- c. The general rule is that, "Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:6, R.S. 42:6.1, or R.S. 42:6.2." La. R.S. 42:5(A).

2. **How a "meeting" is defined**

- a. There are three definitions in the Open Meetings Law: "meeting," "public body," and "quorum" and they are all necessary to determine whether a meeting is a "meeting" for purposes of the Open Meetings Law. R.S. 42:4.2.
- b. "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. R.S. 42:4.2(A)(1).

- Does 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. R.S. 42:4.2(B).
- c. “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. R.S. 42:4.2(A)(2).
- A committee formed by the public body is considered a public body, e.g., an executive committee
 - A citizens’ advisory committee appointed by a public body, even if the committee has no member of the main public body on that committee, is considered a public body. Note: Citizens advisory committees (where members do not receive “any” compensation and serve only in an advisory capacity) do not have to comply with the “notice” and “minutes” requirements described below. But the public body that created the citizens advisory committee is responsible for giving notice and taking minutes. R.S. 42:6.1(D).
 - Even a private organization can be considered a public body for purposes of the Open Meetings Laws, if the entity (1) is organized to perform a governmental function, (2) is supported almost exclusively by tax-derived funds, and (3) sets policy for the distribution of such funds. AG-Op 04-116.
- d. “Quorum” means a simple majority (50% + 1) of the total membership of a public body. This is a default definition and only applies in the absence of a statutorily defined quorum for the public body. No official action may be undertaken in the absence of a quorum.

3. **How to give the public notice of the meeting**

- a. General rule. 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 24 hours before the meeting. R.S. 42:7(A)(1)(b)(i).
- b. Contents. The notice shall include the agenda, date, time, and place of the meeting. R.S. 42:7(A)(1)(b)(ii). The agenda must be reasonably clear to provide the public sufficient notice of what subjects will be discussed. La. Atty. Gen. Op. No. 07-0181.

- c. If matters will be discussed in executive session, the agenda must also include some information about those matters. See R.S. 42:7(A)(1)(b)(iii) and the Sample Notice.
- d. Where/how to give notice.
 - Post a copy of the notice at the principal 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. R.S. 42:7(A)(2)(a).
 - Mail 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. R.S. 42:7(A)(2)(b).
 - Also recommended: Send the notice to the Legislative staff to include in the state's listserv, if the public body includes legislators or will take place at the capitol.

4. How to conduct an open meeting

- a. Minutes. All public bodies (except citizens advisory committees) shall keep written minutes of all of their open meetings. R.S. 42:7.1. The minutes shall include but need not be limited to:
 - The date, time, and place of the meeting.
 - The members of the public body recorded as either present or absent.
 - The substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken.
 - The individual roll-call vote on a motion to go into executive session
 - Any other information that the public body requests be included or reflected in the minutes.

The minutes shall be public records and shall be available within a reasonable time after the meeting. The minutes need not be verbatim transcripts; summaries are sufficient. AG-Op No. 94-376.

- b. Votes. All votes made by members of a public body shall be *viva voce* ("live voice") and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document. R.S. 42:5.
 - Proxy votes are not allowed (unless a statute specifically provide for proxies La. Atty. Gen. Op. No. 92-352). Secret ballots are not allowed. Conference calls are not allowed. However, a member of a public body may call in to a meeting to listen and provide information. But that member will not be counted towards a quorum and cannot vote.

- The use of electronic machines with each member's vote being indicated, by red or green lights, or voting by a show of hands, technically complies with the *viva voce* vote requirement.
- c. Executive Session. A public body may hold executive sessions upon an affirmative vote of two-thirds of its constituent members present. R.S. 42:6.
- No final or binding action may be taken
 - The vote of each member and the reason for holding an executive session shall be entered into the meeting minutes
 - An executive session shall be limited to one or more of the matters listed in R.S. 42:6.1.
 - Note that the public body may not go into executive session for discussion of the appointment of a person to a public body. R.S. 42:6.1(A)(1).
 - However, the public body may have a duty to discuss certain matters, such as personnel performance evaluations, in executive session. The courts have specifically protected personnel evaluations from mandatory dissemination, based on the employee's constitutional right to privacy. This right of privacy may be waived by the person who was evaluated and by the supervisor who evaluated the public employee, because both have a privacy right expectation.
- d. Matters not on the Agenda. Only upon unanimous approval of the members present at a meeting of a public body, may 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. R.S. 42:7(A)(1)(a)(ii).
- e. Public Comment. Each public body conducting a meeting which is subject to the notice requirements of R.S. 42:7(A) shall provide an opportunity for public comment at such meeting, subject to reasonable rules, regulations, and restrictions as adopted by the public body. R.S. 42:5(D). Examples of reasonable restrictions include:
- a time limit on comments
 - requirement that comments must relate to items on the agenda for that specific meeting
- f. Recordings. All or any part of the proceedings in a public meeting may be video or tape recorded, filmed, or broadcast live. A public body shall establish standards for the use of lighting, recording or broadcasting equipment to insure proper decorum in a public meeting. R.S. 42:8.
- g. Parliamentary Procedure. No law specifies what rules of order must be followed in the conduct of meetings of public bodies; however, many public

bodies adopt some form of parliamentary procedure such as “Roberts Rules of Order”.

- h. Post a copy of the Open Meetings Law. A 1999 amendment to the Open Meetings Law requires all public bodies to post a copy of the entire Open Meetings Law (R.S. 42:4.1 through 13) at the place of the meeting. R.S. 42:4.1.

5. Consequences of Noncompliance

- a. Voidability. Any action taken in violation of R.S. 42:4.1 through R.S. 42:8 shall be voidable by a court of competent jurisdiction. A suit to void any action must be commenced within sixty days of the action. R.S. 4:9.

Actions take at a meeting that were in violation of the Open Meetings Law due to lack of 24-hours notice, were cured by subsequent ratification of the action taken at a subsequent valid meeting. *Marien v. Rapides Parish Police Jury*, 717 So.2d 1187 (La. App. 3rd Cir. 1998).

- b. Civil Penalties. 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 \$100 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. RS 42:13.
- c. Remedies. 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 (a court order to compel the public official or public body to perform mandatory or purely ministerial duties correctly)
 - (2) Injunctive relief (Temporarily compel the public body to act or stop acting, pending final resolution of the issue.)
 - (3) Declaratory judgment (A binding adjudication that establishes the rights and other legal relations of the parties without providing for or ordering enforcement.)
 - (4) Judgment rendering the action void as provided in R.S. 42:9
 - (5) Judgment awarding civil penalties as provided in R.S. 42:13

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. 42:4.1 through R.S. 42:12. Any noncompliance with the orders of the court may be punished as contempt of court. R.S. 42:11.

- d. Right to enforce. R.S. 42:10

- The attorney general shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 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.
 - Each district attorney shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 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.
 - Any person who has been denied any right conferred by the provisions of R.S. 42:4.1 through R.S. 42:8 or who has reason to believe that the provisions of R.S. 42:4.1 through R.S. 42:8 have been violated may institute enforcement proceedings.
- e. **Attorneys Fees.** 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.

Lagniappe. Technology has changed the way we communicate. But the Open Meetings Law has not changed. Again, a “meeting” is defined as a “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.” R.S. 42:4.2(A)(1). R.S. 42:5 prohibits any public body from utilizing any means to circumvent the intent of the open meetings laws.

How does this apply to e-mail, text messages, internet chat rooms, Twitter, Facebook, etc.? Several out-of-state cases have addressed those issues.

Wood v. Battle Ground School Dist., 107 Wash.App. 550 (Wash.App. Div. 2, 2001): The mere use or passive receipt of e-mail does not automatically constitute a meeting. The court stated that it would examine the intent behind the communication, i.e., whether there is an active exchange of information and opinions? Is there a collective intent to deliberate and/or discuss board business?

Beck v. Shelton, 267 Va. 482 (Va. 2004): The issue before the court was whether an exchange of e-mails among city council members was a “meeting” under the Open Meetings Laws. The court evaluated whether there were significant delays

in receiving and responding to e-mails, and concluded that because the communications are not simultaneously exchanged, the e-mail exchange was not considered an open meeting.

Rangra v. Brown was a Texas case that was ultimately dismissed on grounds unrelated to open meetings laws issues. One issue in the matter was whether an exchange of e-mails among a quorum of city council members was a meeting. The topic being discussed in the e-mails was whether to call a meeting, to discuss a public contract.

The Louisiana Attorney General's office cautions agencies to therefore consider the following factors when determining whether electronic communications amount to a "meeting" for purposes of determining whether there may be a violation of the Open Meetings Law:

- Was the communication simultaneous, or was there a delay between responses?
- Is it a passive receipt of e-mail, or an invitation to discuss?
- Is the e-mail solicited or unsolicited?
- Was the e-mail forwarded by someone who was not the author to a quorum?
- Is the electronic communication (in the case of Facebook, chat rooms, Twitter) open to everyone or only viewable to a select group?

Attachments

Sample Notice
The Open Meetings Law

Sample Notice

NOTICE OF MEETING

LOUISIANA GAMING CONTROL BOARD

Tuesday, April 20, 2010 – 10:00 a.m.

Natchez Room- Galvez Building

602 North Fifth Street

Baton Rouge, LA

I. CALL TO ORDER

II. COMMENTS FROM THE CHAIR

III. APPROVAL OF MINUTES

IV. REVENUE REPORTS

V. UPDATE ON COMPULSIVE GAMING PROGRAMS

VI. VIDEO GAMING ISSUES

A. Consideration of the following truckstop applications:

1. T & D Ventures, LLC d/b/a Lucky Dollar Casino – No. 4701512880 (transfer of interest)
2. Bayou Vista Truck Plaza & Casino, LLC d/b/a Bayou Vista Truck Place & Casino – No. 5100511651 (transfer of interest)
3. Houma Truck Plaza & Casino, LLC d/b/a Pelican Palace Casino – No. 5501511337 (transfer of interest)
4. Lucky Magnolia Truck Stop & Casino, LLC d/b/a Lucky Magnolia Casino – No. 4600511567 (transfer of interest)
5. Raceland Truck Plaza & Casino, LLC d/b/a Raceland Casino – No. 2900512137 (transfer of interest)

6. Jalou Eunice, LLC d/b/a Cash Magic Eunice – No. 4900514311 (transfer of interest)
7. Jalou Breaux Bridge, LLC d/b/a Cash Magic Breaux Bridge – No. 5000514139 (transfer of interest)
8. Jalou of Jefferson, LLC d/b/a Cash Magic Westbank Casino – No. 2600514473
9. Jalou of St. Martin, LLC d/b/a Vegas Style Casino – No. 5000513043 (transfer of interest)
10. Cash Magic Vinton, LLC d/b/a Cash Magic Vinton – No. 1000513267 (transfer of interest)
11. Jalou Diamond, LLC d/b/a Vegas Style Casino North – No. 5000513263 (transfer of interest)
12. Cash Magic Shreveport, LLC d/b/a Cash Magic Shreveport – No. 0904515201 (transfer of interest)
13. Cash Magic Larose, LLC d/b/a Cash Magic Larose – No. 2900514756 (transfer of interest)
14. Cash Magic Texas Pelican, LLC d/b/a Cash Magic Texas Pelican – No. 1000514911 (transfer of interest)
15. Cash Magic St. Helena, LLC d/b/a Cash Magic St. Helena – No. 4600514932 (transfer of interest)
16. Cash Magic Lake Charles, LLC d/b/a Cash Magic Lake Charles – No. 1000501777 (transfer of interest)
17. Jace, LLC d/b/a Colonel's Truck Plaza and Casino – No. 5500511812 (transfer of interest)
18. Cash Magic Winner's Choice, LLC d/b/a Cash Magic Winner's Choice – No. 1002503597 (transfer of interest)
19. Jalou Fox, LLC d/b/a St. Helena Grocery and Casino – No. 4600514760 (transfer of interest)
20. Jalou Forest Gold, LLC d/b/a Forest Gold Truck Plaza and Casino – No. 4600514933 (transfer of interest)
21. Jalou Amite, LLC d/b/a Amite Truck Plaza Casino – No. 4600514957 (transfer of interest)

22. Cash Magic Springhill, LLC d/b/a Cash Magic Springhill – No. 6003515055 (transfer of interest)

23. Cash Magic Vivian, LLC d/b/a Cash Magic Vivian – No. 0900515050 (transfer of interest)

24. Cash's Casino, Inc. d/b/a Cash's Truck Plaza – No. 6100510648 (transfer of interest)

VII. CASINO GAMING ISSUES

A. Surrender of License No. R016500086, PNK (SCB), LLC d/b/a Sugarcane Bay and cancellation of the Sugarcane Bay Project by Pinnacle Entertainment, Inc.

B. Consideration of approval of contracts for PNK-Baton Rouge project, License No. R011000801 and authorization to proceed on approved project

VIII. RULEMAKING

A. Adoption of amendments to LAC 42:VII.2707, 2715, 2713; LAC 42:IX.2707, 2715, 2717, 2723; & LAC 42:XIII.2707, 2717, 2723 (Accounting Regulations)

B. Institution of rule-making procedures to amend LAC 42:XI.2403, 2405, 2407 & 2415 (Definitions, Application and License, Operation of Video Draw Poker Devices and Gaming Establishments)

IX. PROPOSED SETTLEMENTS FROM HEARING OFFICERS' DECISIONS

1. In Re: Renata T. Woods d/b/a L & R Bar and Lounge – No. 3601115609

2. In Re: Petit Coin De Plaisir, Inc. d/b/a E & J's Bar and Lounge – No. 2605114777

3. In Re: John Silvy, Jr. d/b/a Brothers Three – No. 360110369

4. In Re: Deloris Adams d/b/a Big Time Tips Bar & Lounge – No. 3601107572

5. In Re: Minnows, LLC d/b/a Lucky Dollar Casino – No. 5000512212B

6. In Re: T & D Ventures, LLC d/b/a Lucky Dollar Casino – No. 4701512880C

7. In Re: Little Deuces, Inc. d/b/a Little Deuces – No. 5302605379A

8. In Re: Horseshoe Entertainment, L.P. d/b/a Horseshoe Casino – No. R010800198

X. PUBLIC COMMENTS

XI. ADJOURNMENT

Open Meetings Laws

La. R.S. 42:4.1 – 13

§4.1. 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. 42:4.1 through 10 shall be construed liberally.

B. Further, to advance this policy, all public bodies shall post a copy of R.S. 42:4.1 through 13.

Added by Acts 1976, No. 665, §1; Acts 1999, No. 467, §1.

§4.2. Definitions

A. For the purposes of R.S. 42:1 through R.S. 42:12:

(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.

B. The provisions of R.S. 42:4.1 through R.S. 42:12 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.

Added by Acts 1979, No. 681, §1. Amended by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1988, No. 821, §1.

§5. 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. 42:6, R.S. 42:6.1, or R.S. 42:6.2.

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. 42:4.1 through R.S. 42:8.

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. 42:5.1, each public body conducting a meeting which is subject to the notice requirements of R.S. 42:7(A) shall provide an opportunity for public comment at such meeting, subject to reasonable rules, regulations, and restrictions as adopted by the public body.

Added by Acts 1952, No. 484, §1. Amended by Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1978, No. 456, §1; Acts 1979, No. 681, §1; Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1989, No. 55, §1; Acts 2001, No. 285, §1.

§5.1. 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. A school board in a parish containing a municipality with a population of four hundred thousand or more according to the latest federal decennial census, 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.

Acts 1997, No. 895, §1, eff. July 10, 1997; Acts 2005, No. 474, §1.

§6. 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. 42:7, 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. 42:6.1; 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. 42:6.1 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. 42:4.1 through R.S. 42:8.

Acts 1952, No. 484, §1. Amended by Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1979, No. 681, §1.

§6.1. Exceptions to open meetings

A. A public body may hold an executive session pursuant to R.S. 42:6 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, and provided that nothing in this Subsection shall permit an executive session for discussion of the appointment of a person to a public body. 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 1 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. 42:4.1 through R.S. 42:12 shall not apply to judicial proceedings.

C. The provisions of R.S. 42:4.1 through R.S. 42:12 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. 42:7 and R.S. 42:7.1 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. 42:4.1 through 42:12 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. 42:7 in providing the required notice of meetings of such group or committee.

Added by Acts 1976, No. 665, §1. Amended by Acts 1979, No. 681, §1; Acts 1982, No. 215, §1; Acts 1989, No. 389, §1; Acts 2003, No. 336, §1, eff. June 13, 2003; Acts 2006, No. 90, §1, eff. May 25, 2006.

§6.2. Executive or closed meetings of legislative houses and committees

A. Notwithstanding any contrary provision of R.S. 42:6 and R.S. 42:6.1, 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. 42:4.1 through R.S. 42:12 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.

Added by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

§7. 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) Such notice shall include the agenda, date, time, and place of the meeting, provided that 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. 42:5 or 5.1. 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. 42:4.1 through 8.

(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. 42:6.1(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 principal 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.

(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.

Added by Acts 1952, No. 484, §1. Amended by Acts 1972, No. 669, §1; Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1979, No. 681, §1; Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1989, No. 390, §1; Acts 2008, No. 131, §1.

§7.1. 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. 42:7.2. 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. 42:6, R.S. 42:6.1, and R.S. 42:6.2, or rules adopted under the provisions of R.S. 42:7.2.

Added by Acts 1976, No. 665, §1. Amended by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

§7.2. 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.

Added by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

§7.3. 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.

Acts 2003, No. 1274, §1, eff. July 11, 2003.

§8. Sonic and video recordings; live broadcast

A. All or any part of the proceedings in a public meeting may be video or tape recorded, filmed, or broadcast live.

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

Added by Acts 1952, No. 484, §1. Amended by Acts 1972, No. 669, §1; Acts 1989, No. 172, §1

§9. Voidability

Any action taken in violation of R.S. 42:4.1 through R.S. 42:8 shall be voidable by a court of competent jurisdiction. A suit to void any action must be commenced within sixty days of the action.

Added by Acts 1972, No. 669, §2. Amended by Acts 1976, No. 665, §1; Acts 1979, No. 681, §1.

§10. Enforcement

A. The attorney general shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 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. 42:4.1 through R.S. 42:8 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. 42:4.1 through R.S. 42:8 or who has reason to believe that the provisions of R.S. 42:4.1 through R.S. 42:8 have been violated may institute enforcement proceedings.

Added by Acts 1976, No. 665, §1. Amended by Acts 1977, No. 707, §1; Acts 1979, No. 681, §1.

§11. 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. 42:9.
- (5) Judgment awarding civil penalties as provided in R.S. 42:13.

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. 42:4.1 through R.S. 42:12. 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.

Added by Acts 1979, No. 681, §1. Acts 1989, No. 54, §1.

§12. 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.

Added by Acts 1979, No. 681, §1.

§13. Civil penalties

Any member of a public body who knowingly and wilfully 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.

Acts 1989, No. 54, §1.

Note: Regular Session 2010 Instruments

HB 1307 R. Jones Requires a public comment period for each item on a public body's agenda prior to the vote on the item.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=704919>

SB 583 Peterson Revises the Open Meetings Law.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=690759>

Testimony on 5/11/10 reveals differences of opinions on interpreting the provisions of the Open Meetings Laws.