LEGISLATIVE BILL 621

Approved by the Governor March 15, 1994

Introduced by Warner, 25

AN ACT relating to public meetings; to amend sections 84-1410 and 84-1414,
    Revised Statutes Supplement, 1992; to redefine formal action; to
    change penalty provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

        Section 1.   That section 84-1410, Revised Statutes Supplement, 1992,
be amended to read as follows:
        84-1410.   (1) Any public body may hold a closed session by the
affirmative vote of a majority of its voting members if a closed session is
clearly necessary for the protection of the public interest or for the
prevention of needless injury to the reputation of an individual and if such
individual has not requested a public meeting. Closed sessions may be held
for, but shall not be limited to, such reasons as:
        (a) Strategy sessions with respect to collective bargaining, real
estate purchases, pending litigation, or litigation which is imminent as
evidenced by communication of a claim or threat of litigation to or by the
public body;
        (b)   Discussion regarding deployment of security personnel or
devices;
        (c) Investigative proceedings regarding allegations of criminal
misconduct; or
        (d) Evaluation of the job performance of a person when necessary to
prevent needless injury to the reputation of a person and if such person has
not requested a public meeting.
        Nothing in this section shall permit a closed meeting for discussion
of the appointment or election of a new member to any public body.
        (2) The vote to hold a closed session shall be taken in open
session. The vote of each member on the question of holding a closed session,
the reason for the closed session, and the time when the closed session
commenced and concluded shall be recorded in the minutes. The public body
holding such a closed session shall restrict its consideration of matters
during the closed portions to only those purposes set forth in the minutes as
the reason for the closed session. The meeting shall be reconvened in open
session before any formal action may be taken. For purposes of this section,
formal action shall mean a collective decision or a collective commitment or
promise to make a decision on any question, motion, proposal, resolution,
order, or ordinance or formation of a position or policy but shall not include
negotiating guidance given by members of the public body to legal counsel or
other negotiators in closed sessions authorized under subdivision (1)(a) of
this section.
        (3) Any member of any public body shall have the right to challenge
the continuation of a closed session if the member determines that the session
has exceeded the reason stated in the original motion to hold a closed session
or if the member contends that the closed session is neither clearly necessary
for (a) the protection of the public interest or (b) the prevention of
needless injury to the reputation of an individual. Such challenge shall be
overruled only by a majority vote of the members of the public body. Such
challenge and its disposition shall be recorded in the minutes.
        (4) Nothing in this section shall be construed to require that any
meeting be closed to the public. No person or public body shall fail to
invite a portion of its members to a meeting, and no public body shall
designate itself a subcommittee of the whole body for the purpose of
circumventing sections 79-327, 84-1408 to 84-1414, or 85-104. No closed
session, informal meeting, chance meeting, social gathering, or electronic
communication shall be used for the purpose of circumventing the requirements
of such sections.
        (5) Such sections shall not apply to chance meetings or to
attendance at or travel to conventions or workshops of members of a public
body at which there is no meeting of the body then intentionally convened, if
there is no vote or other action taken regarding any matter over which the
public body has supervision, control, jurisdiction, or advisory power.
        Sec. 2.   That section 84-1414, Revised Statutes Supplement, 1992, be
amended to read as follows:
        84-1414.   (1) Any motion, resolution, rule, regulation, ordinance,
or formal action of a public body made or taken in violation of sections

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79-327, 84-1408 to 84-1414, and 85-104 shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of such sections shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce such sections.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of such sections, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of such sections to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate ~~or who knowingly attends or remains at a meeting which is in violation of~~ or who attends or remains at a meeting knowing that the public body is in violation of any provision of sections 79-327, 84-1408 to 84-1414, and 85-104 shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Sec. 3.   That original sections 84-1410 and 84-1414, Revised Statutes Supplement, 1992, are repealed.