

in the enforcement of the provisions of this section.

Passed the Senate May 10, 1971.

Passed the House May 10, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 250

[Engrossed Senate Bill No. 485]

OPEN PUBLIC MEETINGS ACT OF 1971

AN ACT Relating to public officers and agencies; amending section 3, chapter 237, Laws of 1967 and RCW 34.04.024; repealing section 1, chapter 216, Laws of 1953 and RCW 42.32.010; repealing section 2, chapter 216, Laws of 1953 and RCW 42.32.020; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this act that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

NEW SECTION. Sec. 2. As used in this act unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution or other state agency which is created by or pursuant to statute, other than courts and the legislature.

(b) Any county, city, school district, special purpose district or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance or other legislative act, including but not limited to planning commissions, library or park boards, and other boards, commissions and agencies.

(2) "Governing body" means the multimember board, commission,

committee, council or other policy or rule-making body of a public agency.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to a collective decision made by a majority of the members of a governing body, a collective commitment or promise by a majority of the members of a governing body to make a positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

NEW SECTION. Sec. 3. All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this act.

NEW SECTION. Sec. 4. A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance.

NEW SECTION. Sec. 5. In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

NEW SECTION. Sec. 6. No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this act. Any action taken at meetings failing to comply with the provisions of this section shall be null and void.

NEW SECTION. Sec. 7. The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the

conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the presiding officer of the governing body: PROVIDED, That the notice requirements of this act shall be suspended during such emergency.

NEW SECTION. Sec. 8. A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

NEW SECTION. Sec. 9. The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in section 8 of this act for special meetings, unless such notice is waived as provided for special meetings. Whenever any

meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

NEW SECTION. Sec. 10. Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the governing body in the same manner and to the same extent set forth in section 9 of this act for the adjournment of meetings.

NEW SECTION. Sec. 11. Nothing contained in this act shall be construed to prevent a governing body from holding executive sessions during a regular or special meeting to consider matters affecting national security; the selection of a site or the purchase of real estate, when publicity regarding such consideration would cause a likelihood of increased price; the appointment, employment, or dismissal of a public officer or employee; or to hear complaints or charges brought against such officer or employee by another public officer, person, or employee unless such officer or employee requests a public hearing. The governing body also may exclude from any such public meeting or executive session, during the examination of a witness on any such matter, any or all other witnesses in the matter being investigated by the governing body.

NEW SECTION. Sec. 12. Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this act applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this act does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. Reasonable expenses, including attorney's fees, shall be awarded the person bringing the action if the suit results in assessment of the civil penalty. The members held to be in violation shall be personally liable only for their pro rata share of the expenses.

NEW SECTION. Sec. 13. Any person may commence an action

either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this act by members of a governing body.

NEW SECTION. Sec. 14. If any provision of this 1971 amendatory act conflicts with the provisions of any other statute, the provisions of this 1971 amendatory act shall control: PROVIDED, That this act shall not apply to:

(1) the proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation or profession or to any disciplinary proceedings involving a member of such business, occupation or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) that portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) matters governed by Title 34 RCW, the administrative procedures act, except as expressly provided in section 17 of this 1971 amendatory act.

NEW SECTION. Sec. 15. The following acts or parts thereof are each hereby repealed:

(1) Section 1, chapter 216, Laws of 1953 and RCW 42.32.010;

(2) Section 2, chapter 216, Laws of 1953 and RCW 42.32.020.

NEW SECTION. Sec. 16. This act may be cited as the "Open Public Meetings Act of 1971".

Sec. 17. Section 3, chapter 237, Laws of 1967 and RCW 34.04.025 are each amended to read as follows:

(1) Prior to the adoption, amendment or repeal of any rule, each agency shall:

(a) Give at least twenty days notice of its intended action by filing the notice with the code reviser, mailing the notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings, and giving public notice as provided in ((REW 42-32-040)) this 1971 amendatory act, as now or hereafter amended. Such notice shall include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon.

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if

requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

NEW SECTION. Sec. 18. The purposes of this 1971 amendatory act are hereby declared remedial and shall be liberally construed.

NEW SECTION. Sec. 19. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate May 10, 1971.

Passed the House May 10, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

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CHAPTER 251

[Substitute Senate Bill No. 678]

OPTIONAL MUNICIPAL CODE

AN ACT Relating to the optional municipal code;amending section 35A.02.050, chapter 119, Laws of 1967 ex. sess. as amended by section 2, chapter 52, Laws of 1970 ex. sess. and RCW 35A.02.050; amending section 35A.02.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.080; amending section 35A.02.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.02.090; amending section 35A.12.070, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.070; amending section 35A.14.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.030; amending section 35A.14.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.050; amending section