WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED
Committee Substitute for
SENATE BILL NO. 16

(By Mr. Coleman and Mr. Nelson, original sponsors)

PASSED March 8, 1975

In Effect ninety days from Passage
AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine-a, relating to open governmental proceedings; setting forth a declaration of legislative policy; defining terms; providing for open meetings; relating to the holding of such meetings; providing exceptions; relating to minutes of such meetings; and relating to enforcement.

Be it enacted by the Legislature of West Virginia:

That chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine-a, to read as follows:

ARTICLE 9A. OPEN GOVERNMENTAL PROCEEDINGS.

§6-9A-1. Declaration of legislative policy.

1 The Legislature hereby finds and declares that public agencies, boards, commissions, governing bodies, councils and all other public bodies in this state exist for the singular purpose of representing citizens of this state in governmental affairs, and it is, therefore, in the best interests of the people of this state for all proceedings of all public bodies to be conducted in an open and public manner. The Legislature hereby further finds and declares that the citizens of this state do not yield their sovereignty to the governmental agencies which serve
Enr. Com. Sub. for S. B. No. 16] 2

11 them. The people in delegating authority do not give
12 their public servants the right to decide what is good
13 for them to know and what is not good for them to know.
14 The people insist on remaining informed so that they may
15 retain control over the instruments of government created
16 by them.

1    As used in this article:
2    (1) “Decision” means any determination, action, vote
3        or final disposition of a motion, proposal, resolution, order,
4        ordinance or measure on which a vote of the governing
5        body is required, at any meeting at which a quorum is
6        present;
7        (2) “Executive session” means any meeting or part
8        of a meeting of a governing body which is closed to the
9        public;
10       (3) “Governing body” means the members of any
11        public body having the authority to make decisions for
12        or recommendations to a public body on policy or adminis-
13        tration, the membership of which governing body con-
14        sists of two or more members;
15       (4) “Meeting” means the convening of a governing
16        body of a public body for which a quorum is required in
17        order to make a decision or to deliberate toward a decision
18        on any matter, but such term does not include (a) any
19        meeting for the purpose of making an adjudicatory deci-
20        sion in any quasi-judicial, administrative or court of
21        claims proceeding, (b) any on-site inspection of any
22        project or program, or (c) any political party caucus;
23       (5) “Political subdivision” means any county, county
24        board of education or municipality in or any other politi-
25        cal subdivision of this state;
26       (6) “Public body” means any executive, legislative or
27        administrative body or agency of this state or any political
28        subdivision, or any commission, board, council, bureau,
29        committee or subcommittee or any other agency of any
30        of the foregoing, and such term shall not be construed
31        to include the judicial branch of government, state or
32        local, or any political party executive committee; and
33       (7) “Quorum” means, unless otherwise defined by
applicable law, a simple majority of the constituent membership of a governing body.


Except as expressly and specifically otherwise provided by law, whether heretofore or hereinafter enacted, and except as provided in section four of this article, all meetings of any governing body shall be open to the public. Any governing body may make and enforce reasonable rules and regulations for attendance at any meeting where there is not room enough for all members of the public who wish to attend, and this article shall not be construed to prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised.

§6-9A-4. Exceptions.

(a) Notwithstanding the provisions of section three of this article, a governing body may hold an executive session concerning and may make a decision in such executive session concerning:

(1) Matters of war, threatened attack from a foreign power, civil insurrection or riot; or

(2) The appointment, employment, retirement, promotion, demotion, disciplining, resignation, discharge, dismissal or compensation of any public officer or employee, or other personnel matters, or for the purpose of conducting a hearing on a complaint against a public officer or employee, unless such public officer or employee requests an open meeting; or

(3) The disciplining, suspension or expulsion of any student in any public school or public college or university, unless such student requests an open meeting; or

(4) The issuance, effecting, denial, suspension or revocation of a license, certificate or registration under the laws of this state or any political subdivision, unless the person seeking such license, certificate or registration or whose license, certificate or registration was denied, suspended or revoked requests an open meeting; or
(5) The physical or mental health of any person, unless such person requests an open meeting; or
(6) Matters which if discussed in public would be likely to affect adversely the reputation of any person; or
(7) Any official investigation or matters relating to crime prevention or law enforcement; or
(8) The deployment of security personnel or devices; or
(9) Matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving competition which, if made public, might adversely affect the financial or other interest of the state or any political subdivision.

(b) Notwithstanding the provisions of section three of this article, and in addition to the exceptions provided in subsection (a) of this section four, a governing body may, after convening a meeting open to the public, go into executive session upon a vote of a majority of the members of the governing body present, but no decision shall be made in such an executive session but shall be made only in a meeting open to the public. Notwithstanding any other provision of law or of this article to the contrary, all meetings of the West Virginia board of probation and parole held to discuss whether to parole any person shall be open to the public.


Each governing body shall provide for the preparation of written minutes of all of its meetings. All such minutes, other than the minutes of an executive session, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

(1) The date, time and place of the meeting;
(2) The name of each member of the governing body present and absent;
(3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
The results of all votes and, upon the request of
a member, the vote of each member, by name.


Any action taken or decision made at a meeting held
in violation of the provisions of this article shall not be
void or voidable, but the circuit court of the county
wherein a governing body regularly meets, or the judge
thereof in vacation, shall have jurisdiction to enforce the
provisions of this article by mandamus or by injunction
on petition by any citizen of this state, and no injunction
bond shall be required.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Approved this the 24th day of March, 1975.

Governor
PRESENTED TO THE GOVERNOR

Date: 3/18/75
Time: 4:55 p.m.