



# Senate

General Assembly

**File No. 473**

February Session, 2010

Substitute Senate Bill No. 365

*Senate, April 12, 2010*

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE POSTING OF PUBLIC AGENCY MINUTES AND LEGAL NOTICES ON THE INTERNET WEB SITE OF A MUNICIPALITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-225 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The meetings of all public agencies, except executive sessions, as  
4 defined in subdivision (6) of section 1-200, shall be open to the public.  
5 The votes of each member of any such public agency upon any issue  
6 before such public agency shall be reduced to writing and made  
7 available for public inspection [within] not later than forty-eight hours  
8 after such vote and shall also be recorded in the minutes of the session  
9 at which taken. [Within] Not later than seven days [of] after the session  
10 to which such minutes refer, such minutes shall be available for public  
11 inspection. [and posted on such public agency's Internet web site, if  
12 available.] Not later than fourteen days after the session to which such

13 minutes refer, such minutes shall be posted on such public agency's  
14 Internet web site, if available, provided no municipal public agency  
15 shall be deemed to be in violation of this chapter for failure to meet  
16 this requirement (1) for the period beginning October 1, 2008, and  
17 ending December 31, 2010, if such public agency files a notice with the  
18 town clerk of the applicable municipality indicating the reason for  
19 such failure, and (2) for the period beginning January 1, 2011, and  
20 ending January 1, 2012, following a vote of the applicable legislative  
21 body of such municipality, if such public agency files a notice with the  
22 Freedom of Information Commission describing the hardship that  
23 prevents such public agency from complying with such requirement.  
24 For informational purposes only, a copy of any notice filed with a  
25 town clerk pursuant to this subsection shall be filed with the  
26 commission. Each [such] public agency shall make, keep and maintain  
27 a record of the proceedings of its meetings.

28 (b) Each such public agency of the state shall file not later than  
29 January thirty-first of each year in the office of the Secretary of the  
30 State the schedule of the regular meetings of such public agency for the  
31 ensuing year and shall post such schedule on such public agency's  
32 Internet web site, if available, except that such requirements shall not  
33 apply to the General Assembly, either house thereof or to any  
34 committee thereof. Any other provision of the Freedom of Information  
35 Act notwithstanding, the General Assembly at the commencement of  
36 each regular session in the odd-numbered years, shall adopt, as part of  
37 its joint rules, rules to provide notice to the public of its regular,  
38 special, emergency or interim committee meetings. The chairperson or  
39 secretary of any such public agency of any political subdivision of the  
40 state shall file, not later than January thirty-first of each year, with the  
41 clerk of such subdivision the schedule of regular meetings of such  
42 public agency for the ensuing year, and no such meeting of any such  
43 public agency shall be held sooner than thirty days after such schedule  
44 has been filed. The chief executive officer of any multitown district or  
45 agency shall file, not later than January thirty-first of each year, with  
46 the clerk of each municipal member of such district or agency, the  
47 schedule of regular meetings of such public agency for the ensuing

48 year, and no such meeting of any such public agency shall be held  
49 sooner than thirty days after such schedule has been filed.

50 (c) The agenda of the regular meetings of every public agency,  
51 except for the General Assembly, shall be available to the public and  
52 shall be filed, not less than twenty-four hours before the meetings to  
53 which they refer, (1) in such agency's regular office or place of  
54 business, and (2) in the office of the Secretary of the State for any such  
55 public agency of the state, in the office of the clerk of such subdivision  
56 for any public agency of a political subdivision of the state or in the  
57 office of the clerk of each municipal member of any multitown district  
58 or agency. For any such public agency of the state, such agenda shall  
59 be posted on the public agency's and the Secretary of the State's web  
60 sites. Upon the affirmative vote of two-thirds of the members of a  
61 public agency present and voting, any subsequent business not  
62 included in such filed agendas may be considered and acted upon at  
63 such meetings.

64 (d) Notice of each special meeting of every public agency, except for  
65 the General Assembly, either house thereof or any committee thereof,  
66 shall be posted not less than twenty-four hours before the meeting to  
67 which such notice refers on the public agency's Internet web site, if  
68 available, and given not less than twenty-four hours prior to the time  
69 of such meeting by filing a notice of the time and place thereof in the  
70 office of the Secretary of the State for any such public agency of the  
71 state, in the office of the clerk of such subdivision for any public  
72 agency of a political subdivision of the state and in the office of the  
73 clerk of each municipal member for any multitown district or agency.  
74 The secretary or clerk shall cause any notice received under this section  
75 to be posted in his office. Such notice shall be given not less than  
76 twenty-four hours prior to the time of the special meeting; provided, in  
77 case of emergency, except for the General Assembly, either house  
78 thereof or any committee thereof, any such special meeting may be  
79 held without complying with the foregoing requirement for the filing  
80 of notice but a copy of the minutes of every such emergency special  
81 meeting adequately setting forth the nature of the emergency and the

82 proceedings occurring at such meeting shall be filed with the Secretary  
83 of the State, the clerk of such political subdivision, or the clerk of each  
84 municipal member of such multitown district or agency, as the case  
85 may be, not later than seventy-two hours following the holding of such  
86 meeting. The notice shall specify the time and place of the special  
87 meeting and the business to be transacted. No other business shall be  
88 considered at such meetings by such public agency. In addition, such  
89 written notice shall be delivered to the usual place of abode of each  
90 member of the public agency so that the same is received prior to such  
91 special meeting. The requirement of delivery of such written notice  
92 may be dispensed with as to any member who at or prior to the time  
93 the meeting convenes files with the clerk or secretary of the public  
94 agency a written waiver of delivery of such notice. Such waiver may be  
95 given by telegram. The requirement of delivery of such written notice  
96 may also be dispensed with as to any member who is actually present  
97 at the meeting at the time it convenes. Nothing in this section shall be  
98 construed to prohibit any agency from adopting more stringent notice  
99 requirements.

100 (e) No member of the public shall be required, as a condition to  
101 attendance at a meeting of any such body, to register the member's  
102 name, or furnish other information, or complete a questionnaire or  
103 otherwise fulfill any condition precedent to the member's attendance.

104 (f) A public agency may hold an executive session, as defined in  
105 subdivision (6) of section 1-200, upon an affirmative vote of two-thirds  
106 of the members of such body present and voting, taken at a public  
107 meeting and stating the reasons for such executive session, as defined  
108 in section 1-200.

109 (g) In determining the time within which or by when a notice,  
110 agenda, record of votes or minutes of a special meeting or an  
111 emergency special meeting are required to be filed under this section,  
112 Saturdays, Sundays, legal holidays and any day on which the office of  
113 the agency, the Secretary of the State or the clerk of the applicable  
114 political subdivision or the clerk of each municipal member of any

115 multitown district or agency, as the case may be, is closed, shall be  
116 excluded.

117 Sec. 2. Subsection (b) of section 1-206 of the general statutes is  
118 repealed and the following is substituted in lieu thereof (*Effective from*  
119 *passage*):

120 (b) (1) Any person denied the right to inspect or copy records under  
121 section 1-210 or wrongfully denied the right to attend any meeting of a  
122 public agency or denied any other right conferred by the Freedom of  
123 Information Act may appeal therefrom to the Freedom of Information  
124 Commission, by filing a notice of appeal with said commission. A  
125 notice of appeal shall be filed not later than thirty days after such  
126 denial, except in the case of an unnoticed or secret meeting, in which  
127 case the appeal shall be filed not later than thirty days after the person  
128 filing the appeal receives notice in fact that such meeting was held. For  
129 purposes of this subsection, such notice of appeal shall be deemed to  
130 be filed on the date it is received by said commission or on the date it is  
131 postmarked, if received more than thirty days after the date of the  
132 denial from which such appeal is taken. Upon receipt of such notice,  
133 the commission shall serve upon all parties, by certified or registered  
134 mail, a copy of such notice together with any other notice or order of  
135 such commission. In the case of the denial of a request to inspect or  
136 copy records contained in a public employee's personnel or medical  
137 file or similar file under subsection (c) of section 1-214, the commission  
138 shall include with its notice or order an order requiring the public  
139 agency to notify any employee whose records are the subject of an  
140 appeal, and the employee's collective bargaining representative, if any,  
141 of the commission's proceedings and, if any such employee or  
142 collective bargaining representative has filed an objection under said  
143 subsection (c), the agency shall provide the required notice to such  
144 employee and collective bargaining representative by certified mail,  
145 return receipt requested or by hand delivery with a signed receipt. A  
146 public employee whose personnel or medical file or similar file is the  
147 subject of an appeal under this subsection may intervene as a party in  
148 the proceedings on the matter before the commission. [Said] Except as

149 provided in subdivision (5) of this subsection, the commission shall,  
150 after due notice to the parties, hear and decide the appeal [within] not  
151 later than one year after the filing of the notice of appeal. The  
152 commission shall adopt regulations in accordance with chapter 54,  
153 establishing criteria for those appeals which shall be privileged in their  
154 assignment for hearing. Any such appeal shall be heard not later than  
155 thirty days after receipt of a notice of appeal and decided not later than  
156 sixty days after the hearing. If a notice of appeal concerns an  
157 announced agency decision to meet in executive session or an ongoing  
158 agency practice of meeting in executive sessions, for a stated purpose,  
159 the commission or a member or members of the commission  
160 designated by its chairperson shall serve notice upon the parties in  
161 accordance with this section and hold a preliminary hearing on the  
162 appeal not later than seventy-two hours after receipt of the notice,  
163 provided such notice shall be given to the parties at least forty-eight  
164 hours prior to such hearing. During such preliminary hearing, the  
165 commission shall take evidence and receive testimony from the parties.  
166 If after the preliminary hearing the commission finds probable cause to  
167 believe that the agency decision or practice is in violation of sections 1-  
168 200 and 1-225, as amended by this act, the agency shall not meet in  
169 executive session for such purpose until the commission decides the  
170 appeal. If probable cause is found by the commission, it shall conduct a  
171 final hearing on the appeal and render its decision not later than five  
172 days after the completion of the preliminary hearing. Such decision  
173 shall specify the commission's findings of fact and conclusions of law.

174 (2) In any appeal to the Freedom of Information Commission under  
175 subdivision (1) of this subsection or subsection (c) of this section, the  
176 commission may confirm the action of the agency or order the agency  
177 to provide relief that the commission, in its discretion, believes  
178 appropriate to rectify the denial of any right conferred by the Freedom  
179 of Information Act. The commission may declare null and void any  
180 action taken at any meeting which a person was denied the right to  
181 attend and may require the production or copying of any public  
182 record. In addition, upon the finding that a denial of any right created  
183 by the Freedom of Information Act was without reasonable grounds

184 and after the custodian or other official directly responsible for the  
185 denial has been given an opportunity to be heard at a hearing  
186 conducted in accordance with sections 4-176e to 4-184, inclusive, the  
187 commission may, in its discretion, impose against the custodian or  
188 other official a civil penalty of not less than twenty dollars nor more  
189 than one thousand dollars. If the commission finds that a person has  
190 taken an appeal under this subsection frivolously, without reasonable  
191 grounds and solely for the purpose of harassing the agency from  
192 which the appeal has been taken, after such person has been given an  
193 opportunity to be heard at a hearing conducted in accordance with  
194 sections 4-176e to 4-184, inclusive, the commission may, in its  
195 discretion, impose against that person a civil penalty of not less than  
196 twenty dollars nor more than one thousand dollars. The commission  
197 shall notify a person of a penalty levied against him pursuant to this  
198 subsection by written notice sent by certified or registered mail. If a  
199 person fails to pay the penalty within thirty days of receiving such  
200 notice, the superior court for the judicial district of Hartford shall, on  
201 application of the commission, issue an order requiring the person to  
202 pay the penalty imposed. If the executive director of the commission  
203 has reason to believe an appeal under subdivision (1) of this subsection  
204 or subsection (c) of this section (A) presents a claim beyond the  
205 commission's jurisdiction; (B) would perpetrate an injustice; or (C)  
206 would constitute an abuse of the commission's administrative process,  
207 the executive director shall not schedule the appeal for hearing  
208 without first seeking and obtaining leave of the commission. The  
209 commission shall provide due notice to the parties and review  
210 affidavits and written argument that the parties may submit and grant  
211 or deny such leave summarily at its next regular meeting. The  
212 commission shall grant such leave unless it finds that the appeal: (i)  
213 Does not present a claim within the commission's jurisdiction; (ii)  
214 would perpetrate an injustice; or (iii) would constitute an abuse of the  
215 commission's administrative process. Any party aggrieved by the  
216 commission's denial of such leave may apply to the superior court for  
217 the judicial district of Hartford, within fifteen days of the commission  
218 meeting at which such leave was denied, for an order requiring the

219 commission to hear such appeal.

220 (3) In making the findings and determination under subdivision (2)  
221 of this subsection the commission shall consider the nature of any  
222 injustice or abuse of administrative process, including but not limited  
223 to: (A) The nature, content, language or subject matter of the request or  
224 the appeal; (B) the nature, content, language or subject matter of prior  
225 or contemporaneous requests or appeals by the person making the  
226 request or taking the appeal; and (C) the nature, content, language or  
227 subject matter of other verbal and written communications to any  
228 agency or any official of any agency from the person making the  
229 request or taking the appeal.

230 (4) Notwithstanding any provision of this subsection to the  
231 contrary, in the case of an appeal to the commission of a denial by a  
232 public agency, the commission may, upon motion of such agency,  
233 confirm the action of the agency and dismiss the appeal without a  
234 hearing if it finds, after examining the notice of appeal and construing  
235 all allegations most favorably to the appellant, that (A) the agency has  
236 not violated the Freedom of Information Act, or (B) the agency has  
237 committed a technical violation of the Freedom of Information Act that  
238 constitutes a harmless error that does not infringe the appellant's rights  
239 under said act.

240 (5) In the case of an appeal to the commission concerning a failure of  
241 a public agency to post minutes of a meeting on a public agency's  
242 Internet web site in accordance with subsection (a) of section 1-225, as  
243 amended by this act, the commission may dismiss the appeal without  
244 a hearing if it finds, after examining the notice of appeal and  
245 construing all allegations most favorably to the appellant, that the  
246 agency has complied with the provisions concerning the filing of  
247 notice in accordance with subdivision (1) or (2) of subsection (a) of  
248 section 1-225, as amended by this act.

249 Sec. 3. Section 1-2 of the general statutes is repealed and the  
250 following is substituted in lieu thereof (*Effective October 1, 2010*):

251 (a) Each provision of the general statutes, the special acts or the  
 252 charter of any town, city or borough which requires the insertion of an  
 253 advertisement of a legal notice in a daily newspaper shall be construed  
 254 to permit such advertisement to be inserted in a weekly newspaper or  
 255 on an Internet web site in accordance with subsection (b) of this  
 256 section; but this section shall not be construed to reduce or otherwise  
 257 affect the time required by law for giving such notice. Whenever notice  
 258 of any action or other proceeding is required to be given by  
 259 publication in a newspaper, either by statute or order of court, the  
 260 newspaper selected for that purpose, unless otherwise expressly  
 261 prescribed, shall be one having a substantial circulation in the town in  
 262 which at least one of the parties, for whose benefit such notice is given,  
 263 resides.

264 (b) Notwithstanding any provision of the general statutes, any  
 265 town, city or borough may post any advertisement of a legal notice  
 266 described in subsection (a) of this section concerning the procurement  
 267 of goods or services, including, but not limited to, requests for  
 268 proposals and bid solicitations, in a conspicuous place on such town's,  
 269 city's or borough's Internet web site in lieu of insertion of such  
 270 advertisement in a daily or weekly newspaper.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-225
Sec. 2	<i>from passage</i>	1-206(b)
Sec. 3	<i>October 1, 2010</i>	1-2

**GAE** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Potential Savings	Greater than \$1 million total	Greater than \$1 million total

**Explanation**

The bill makes changes to statute regarding municipalities posting legal notices which could result in a savings of more than \$1 million in total. Under current law, municipalities must advertise legal notices for requests for proposals and bid solicitation in a newspaper. The bill allows municipalities to post this information on the town website. The savings to the towns that choose this option varies depending on how many legal notices are posted a year, usually also dependent on population. Smaller towns with a population of less than 10,000 spend approximately \$6,000 per year while larger towns with a population of over 50,000 spend approximately \$15,000 - \$30,000. The extent of savings to each town is dependent upon how many legal notices they choose to post online.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 365*****AN ACT CONCERNING THE POSTING OF PUBLIC AGENCY MINUTES AND LEGAL NOTICES ON THE INTERNET WEB SITE OF A MUNICIPALITY.*****SUMMARY:**

This bill extends, from seven to 14 days after a meeting, the deadline by which all public agencies must post meeting minutes on their available web sites. Such minutes are required to be publicly disclosed under the Freedom of Information Act (FOIA) and still must be available for public inspection within seven days after a meeting, as under current law.

Under the bill, a municipal public agency that does not comply with this requirement does not violate FOIA if:

1. from October 1, 2008 to December 31, 2010, it files a notice with the applicable town clerk indicating the reason for its failure to post the minutes and
2. from January 1, 2011 to January 1, 2012, after a vote of its legislative body, it files a notice with the Freedom of Information Commission (FOIC) describing the hardship that prevents it from complying.

Any notice filed with a town clerk must also be filed with the FOIC for informational purposes. The bill also authorizes the FOIC to dismiss without a hearing a complaint about the posting of meeting minutes if the municipality has filed the proper notice with its town clerk or the commission.

Additionally, the bill allows municipalities to post legal notices for the procurement of goods and services, such as requests for proposals

and bid solicitations, in a conspicuous location on the municipality's website in lieu of advertising them in a newspaper.

EFFECTIVE DATE: Upon passage, except the provision concerning procurement legal notices, which is effective October 1, 2010.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13      Nay 1      (03/24/2010)