

Pennsylvania's Sunshine Law

Act 84 of 1986
amended by Act 93 of 1998

Pennsylvania's Sunshine Law requires that all official actions and deliberations of municipal or agency governing bodies held for the purpose of making a decision take place at meetings that are open to the public. The openness keeps residents more informed and allows for increased public confidence in our governing bodies.

Major provisions of the original act:

1. All meetings or hearings of every agency at which formal action is taken are public meetings and shall be open to the public.
2. No formal action shall be valid unless formal action is taken during a public meeting.
3. No public meeting of any agency shall be begun, adjourned, recessed or interrupted for the purpose of an executive session except for labor negotiations and certain disciplinary actions.
4. The minutes of a public meeting of an agency shall be promptly recorded and open for examination and inspection by citizens of the Commonwealth.
5. Every agency shall hold public meetings at specified times and places of which previous notice must be given by posting notice of the public meetings at the principal office of the agency or the building where the meeting is to be held.
6. Public notice of meeting times and locations shall be published in a newspaper of general circulation at least once each year.

Additional Requirements created by Act 93 of 1998:

1. At each meeting of an agency subject to the Sunshine Law, a public comment period must be provided before any official action is taken.
2. If a person proves that a governing body violated the Sunshine Law "willingly" or with "wanton disregard," the court must award all or part of the attorney's fees and costs to the prevailing party.

Questions and Answers about Pennsylvania's Sunshine Law, District Meetings, and Conservation Districts

1. Does the Sunshine Law and its amendments of 1998 affect conservation districts??

Yes. Conservation districts are defined as “a public body corporate and politic exercising public powers of the Commonwealth as an agency thereof” by Section 5(2) of the Conservation District Law. As such, they must follow the provisions of the Sunshine Law in conducting their business.

2. For what reasons can a conservation district board go into executive session?

- to discuss personnel matters including hiring, promoting, disciplining or dismissing of employees
- to hold information, strategy or negotiations related to collective bargaining agreements or arbitrations
- to consider the purchase/lease of real estate
- to consult with an attorney regarding litigation
- to discuss district business that would lead to disclosure of confidential information including investigations of possible violations of law and quasi judicial deliberation

3. In order to comply with the Sunshine Law, what should a conservation district include in its official minutes?

- date, time and location of the meeting
- names of members present
- substance of all official actions (ex: motions) and a record of any roll call votes taken
- the names of citizens who appeared officially and the subject of their testimony

4. Must the public be allowed to speak at conservation district board meetings?

Yes. The Sunshine Law states that residents of the political subdivision shall be provided a reasonable opportunity to be heard.

5. How can a conservation district meet the new requirements of the Sunshine Law?

(a) By holding a public comment period within the district meeting either at the beginning of each meeting or before each official action.

The Sunshine Law defines an "official action" as

- recommendations made pursuant to statute, ordinance, or executive order
- establishment of policy
- decisions made on district business
- votes taken on any motion, proposal, resolution, rule, regulation, order or report

If no visitors are present, it is suggested that the district still offer a public comment period and record so in the minutes.

(b) By faithfully following the requirements of the Law. Under the new amendments, if a person proves that a conservation district violated the Sunshine Law "willingly" or with "wanton disregard," the court must award all of part of the attorney's fees and costs to the prevailing party. (If the court finds that the person's legal challenge was frivolous or brought with no substantial justification, it must award all of part of the attorney's fees and costs to the district.

(note: An example of such a violation happened recently in a conservation district. The district board took "official action" at a district meeting to issue a permit in accordance with a county ordinance. A citizens group opposed to the operation receiving the permit observed that there was *no quorum* at the meeting when the vote to issue the permit was made. The conservation district had to rescind the issuance of the permit and take action to reissue the permit at a later meeting. This approval process took two months to complete. Luckily, in this case, the operation seeking the permit did not take legal action against the conservation district for delaying the project.)

6. Must an executive session be advertised in a newspaper of general circulation?

No

7. Are we required to keep tape recorded tapes of meetings?

No, however, board policy may require the tapes to be kept for a certain period of time.

8. May the Board prohibit the use of recording devices during their public meetings?

No, however, they are permitted to adopt rules governing the use of recording devices.

9. Can the Board have an executive session at any time other than the official meeting?

Yes, provided the executive session and the reason for it are announced at a public meeting either prior to or after the executive session is held.

10. Must we take minutes of Executive Sessions?

No. (This is not advisable since minutes become public records.)

11. Can a conservation district use a secret ballot to vote?

No, section 5 of the Sunshine Law requires votes to be cast publicly.

12. When do conservation district meeting minutes become an official record?

When officially accepted or adopted at a public meeting.

13. Are financial statements considered public documents?

Yes

14. What about the rescheduling of cancelled meetings?

The requirements for advertising a rescheduled meeting are the same as for the regularly scheduled meetings. The time and date of the rescheduled meeting should be posted at the meeting location and advertised in a newspaper of general circulation. A notice of cancellation for the originally scheduled meeting should also be posted at the meeting location.

15. Are District Chairs allowed to vote?

Of course they are. Most of the time, a chair's vote is unnecessary because close votes are rare. However, the Chair has the right to vote unless stated otherwise in the constitution or bylaws. The chair's vote can reaffirm the votes of his or her colleagues. Most people know that a Chair's vote can be used to break a tie, but a Chair may also vote to make a tie. The vote to make a tie is simply an informal method of postponing action on an item which will allow the Board more time to reach a decision.