

2009 DRAFTING REQUEST

Bill

Received: **02/13/2009**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Cory Mason (608) 266-0634**

By/Representing: **Amanda Harrington**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Open Meetings**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Mason@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Application of open meetings law to partisan caucuses

Instructions:

Per 07 AB-273.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 02/27/2009	nmatzke 02/27/2009		_____			
/1			jfrantze 03/02/2009	_____	cduerst 03/02/2009	sbasford 03/12/2009	

FE Sent For: **NONE**

<END>

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(DRAFT)

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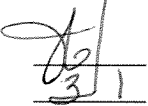
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1/1	jkuesel 2/27/09	1 nwn 2/27	 3/1	 3/1			

FE Sent For:

<END>

NOTE
Tue 3/3
2007 ASSEMBLY BILL 273

P.W.F.

April 23, 2007 - Introduced by Representatives MASON and KAUFERT. Referred to Committee on Assembly Organization.

SAV
X-ref ✓

Regen.

- 1 AN ACT *to repeal* 19.87 (3); and *to amend* 19.87 (2) of the statutes; **relating to:**
- 2 application of the open meetings law to legislative party caucuses. ✓

Analysis by the Legislative Reference Bureau

Currently, under the open meetings law, with certain exceptions, meetings of state and local governmental bodies must be preceded by public notice, must be held in places that are reasonably accessible to the public, and must be open to the public at all times. If a meeting is properly noticed, a governmental body may, by recorded vote of a majority of the members present, convene in closed session for the purpose of considering certain matters specified by law. The open meetings law provides that the law does not apply to any partisan caucus of the senate or assembly, except as provided by legislative rule.

This bill deletes the exception in the open meetings law that makes the law inapplicable to a partisan caucus of the senate or assembly, except as provided by legislative rule. Under the bill, no rule of the senate or assembly and no joint rule of the legislature that exempts a partisan caucus of the senate or assembly from compliance with the open meetings law is valid.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 19.87 (2) of the statutes is amended to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

-2132/ldn
LRB-2054/1dn

JTK:mlc:awn:
↑

March 15, 2007

Date

Representative Mason:

Because the Wisconsin Constitution in art. IV, sec. 8 grants the power to the senate and assembly to determine their own rules of proceedings, if legislative caucus meetings are considered to be within the rubric of rules of proceedings, then the enforcement of the open meetings law with respect to those caucuses would be governed exclusively within the legislative branch and the courts would not be available to provide a remedy for any alleged noncompliance. *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). However, there is precedent for the open meetings law to be followed within the legislative branch and the courts have entertained some complaints of noncompliance. In *Custodian of Records v. State*, 272 Wis. 2d 208, 228-229 (2004), the Wisconsin Supreme Court held that not every statute that governs legislative affairs will be considered to be a "rule of proceedings." In addition, the legislature often chooses to follow statutory requirements even though, strictly speaking, it might not be required to do so. I just note this issue because it may be a factor if the executive or judicial branches of government become involved in enforcement of the requirements created by this draft.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2132/1dn
JTK:nwnjf

March 2, 2009

Representative Mason:

Because the Wisconsin Constitution in art. IV, sec. 8 grants the power to the senate and assembly to determine their own rules of proceedings, if legislative caucus meetings are considered to be within the rubric of rules of proceedings, then the enforcement of the open meetings law with respect to those caucuses would be governed exclusively within the legislative branch and the courts would not be available to provide a remedy for any alleged noncompliance. *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). However, there is precedent for the open meetings law to be followed within the legislative branch and the courts have entertained some complaints of noncompliance. In *Custodian of Records v. State*, 272 Wis. 2d 208, 228-229 (2004), the Wisconsin Supreme Court held that not every statute that governs legislative affairs will be considered to be a "rule of proceedings." In addition, the legislature often chooses to follow statutory requirements even though, strictly speaking, it might not be required to do so. I just note this issue because it may be a factor if the executive or judicial branches of government become involved in enforcement of the requirements created by this draft.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Basford, Sarah

From: Rep.Mason
Sent: Wednesday, March 11, 2009 8:20 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-2132/1 Topic: Application of open meetings law to partisan caucuses

Please Jacket LRB 09-2132/1 for the ASSEMBLY.

Thank you,

Office of Rep. Mason