

CHAPTER 96

AN ACT concerning certain functions and duties of the Board of Public Utilities and supplementing Title 48 of the Revised Statutes and amending R.S.48:2-40.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.48:2-10.1 Definitions.

1. As used in sections 1 through 4 of P.L.2021, c.96 (C.48:2-10.1, C.48:2-10.2, C.48:2-32.8, and C.48:2-32.9):

“Board” means the Board of Public Utilities or any successor agency.

“Contested case” shall have the same meaning as provided in section 2 of P.L.1968, c.410 (C.52:14B-2).

“Emergency” means a period of time during which the Governor has declared the existence of a public health emergency, pursuant to section 3 of P.L.2005, c.222 (C.26:13-3), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.).

“Policy matter” means a matter:

a. where the board conducts quasi-legislative proceedings that are informational, intended to provide a forum for the expression of public sentiment on a proposed agency action, or to examine broad policy issues affecting entire industries or large, undefined classes of people;

b. where the board has not established a proceeding; or

c. that is not the subject of a pending or impending contested case.

“Public document search system” or “search system” means the electronic public document search system established, maintained, and updated, as appropriate, by the board, through the board’s Internet website, pursuant to section 2 of P.L.2021, c.96 (C.48:2-10.2).

C.48:2-10.2 Electronic public document search system.

2. a. No later than 90 days after the effective date of P.L.2021, c.96 (C.48:2-10.1 et al.), the board shall establish, maintain, and update, as appropriate, an electronic public document search system, through the board’s Internet website, that shall allow users to obtain board proceeding documents and docket information online. The search system shall reflect all filings and comments made to the board, in electronic or in printed form, and shall provide for the managing and facilitating of public access to all filings, orders, notices, rulemakings, comments, or other board proceeding documents, as well as allow parties to electronically file these documents. The search system shall be subject to all of the following requirements:

(1) as soon as practicable, and not later than seven calendar days after a document is electronically filed with the board, the document shall be publicly accessible on the search system, unless a longer period of time is needed, as determined by the board, due to an emergency or to address confidentiality, other privacy claims, or digitization of non-electronic records;

(2) all documents on the search system shall be available to the public free of charge;

(3) any information within a document that is prohibited from public disclosure by law or board order shall be exempt from inclusion in the search system;

(4) all board-initiated documents shall be text-searchable and in a machine-readable format and the board shall encourage the filing of documents in text-searchable and machine-readable formats, which capabilities shall be preserved in the search system;

(5) to the extent practicable, external websites shall be able to link documents to the search system;

(6) the board shall provide access to all digital audio and visual files of board recordings when those files become available on its website, and shall explore the technical and financial practicality of including its recordings in the search system; and

(7) the search system shall provide a search function for public use.

b. In developing the search system, the board shall implement technology in order to improve security, data accessibility, affordability, and performance, and to minimize the burden on pro se litigants.

C.48:2-32.8 Advance notice of public meeting available on public document search system.

3. a. Notwithstanding the provision of written advance notice of at least 48 hours, but otherwise in conformity with the other provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), the Board of Public Utilities shall make available to the public on its public document search system, established pursuant to section 2 of P.L.2021, c.96 (C.48:2-10.2), advance notice of every public meeting conducted by the board five calendar days prior to the day of the meeting, unless a longer period of advance notice is required by law, pursuant to the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.); provided, however, that nothing in this subsection shall prohibit the board from updating any meeting agenda or adding an agenda item or removing an agenda item, as well as providing an updated agenda within the five calendar day period, consistent with public transparency. The provisions of this subsection shall apply to every public board meeting, including any public comment meeting, as described in section 4 of P.L.2021, c.96 (C.48:48:2-32.9), regardless of the number of board members present at the meeting.

b. For every public meeting conducted by the Board of Public Utilities, as authorized by law, the board shall provide, in the advance notice of that public meeting, pursuant to subsection a. of this section, a description of any action that may be taken by the board under each listed agenda item in the notice.

C.48:2-32.9 Discussion with interested parties on policy matters.

4. a. Members of the Board of Public Utilities may engage in a discussion with interested parties on policy matters, which discussions shall not be considered prohibited ex parte communications; provided that nothing in this section shall alter the prohibition on ex parte communications between members and interested parties with regard to a contested case.

b. In order to increase transparency and accountability to the public, the board shall hold a public comment meeting at least once every three months in order to hear from the public and interested stakeholders on policy matters before the board, and such matters as the Legislature may from time to time designate. The public comment meeting shall meet all requirements of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and shall allow for oral or written statements by:

(1) any member of the public who is not a party pursuant to paragraph (2) of this subsection, on any topic germane to the interests of the board; and

(2) any party to a proceeding or party represented by counsel or a government affairs agent, on specific topics noticed by the board.

c. The board shall adopt, within 30 days of the effective date of P.L.2021, c.96 (C.48:2-10.1 et al.), written policies to govern the conduct of public comment meetings that shall maximize public engagement, provide annual notice of the scheduled dates for public

comment meetings in accord with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), allow for post-meeting written comments, and reasonably minimize the inadvertent discussion of pending or impending contested matters.

5. R.S.48:2-40 is amended to read as follows:

Issuance of order; effective dates; service; posting on Internet; rehearing.

48:2-40. a. A majority vote of the board shall be necessary to the issuance of an order.

b. (1) After the effective date of P.L.2011, c.63, the board shall issue every order in written form.

(2) If a matter is an emergency that affects public health and safety, the board may issue a temporary order on the matter orally, but shall within 14 days thereafter issue the order as a written order that does not differ substantively from the oral order. Any board order issued orally may be made effective immediately, but, regardless of its effective date, if that order is not issued in written form within 14 calendar days thereafter, or the written order is substantively different from the oral order, the oral order shall be void and of no effect as of the 15th calendar day after its issuance.

c. The board shall issue any written order by filing a copy thereof with the board secretary. Every written order issued by the board shall be:

(1) served upon the person or public utility affected thereby within seven calendar days from its filing by personally delivering or by mailing a certified copy thereof in a sealed package with postage prepaid to the person affected or to an officer or agent of the public utility upon whom a summons may be served; and

(2) posted on its public document search system, established pursuant to section 2 of P.L.2021, c.96 (C.48:2-10.2), within seven calendar days from its filing.

d. All written orders of the board shall become effective upon service thereof or upon such dates after the service thereof as may be specified therein.

e. The board at any time may order a rehearing and extend, revoke, or modify an order made by it.

6. This act shall take effect on the 90th day after the date of enactment and the Board of Public Utilities may take any anticipatory administrative action in advance thereof as shall be necessary for the timely implementation of P.L.2021, c.96 (C.48:2-10.1 et al.).

Approved May 12, 2021.