

Since the 2010 Regular Legislative Session there has been some confusion about how dramatically the Open Meetings Law was changed. The confusion surrounds the impact of Act 850 (HB 1307) of the 2010 Regular Session which amended RS 42:5 as it applies to the requirement that a public body provide for “public comment” at its meetings. The change was minor and most parishes should not experience and significant change to the way they currently operate their meetings.

Since 2001 RS 42:5 has required all public bodies to afford a “public comment period” in their open meetings. Prior to that enactment the public had the right to attend and witness, but not speak at an open meeting of a public body. The law, at that time, did not dictate at what point in the meeting public comment should be allowed. It merely provided that there was a requirement to allow public comment and vested the public body with the authority to make reasonable rules pertaining to the public comment period.

When first adopted the public comment period was distinct from the requirement found in RS 42:5.1, which is applicable only to school boards. School boards are required to have a public comment period immediately preceding each item on their agenda. This requirement was put into place upon some school boards choosing to conduct the public comment period as the last item on the agenda, thus after all of the votes had been taken. HB 1307, as first filed,

would have placed that strict provision on all other public bodies. But, as amended and finally adopted, HB 1307 (now Act 850) only requires that the public comment period be prior to any action on the agenda items. This fosters the intent of the public comment provision; ie, that the elected officials hear the public comment before making their official decisions on the items on the agenda.

The PJAL has long recommended that the public comment period be at the beginning of the meeting, and it appears as though most parish governing bodies (parish councils and police juries) were doing it that way. If your parish was one of those, the law will not impact your meetings at all. There are a number of other rules and procedures that your parish may wish to consider adopting when implementing RS 42:5:

1. Have a written public comment policy as part of your written and adopted rules of procedure;
2. Set the public comment period prior to any substantive agenda items (maybe right after roll call or the pledge of allegiance);
3. Limit public comment to the items that are actually on the agenda, and make persons wishing to comment identify the agenda item on which they intend to comment;

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4. Limit each speaker to a reasonable time period to make his/her comments (3-5 mins);
 5. Limit the total public comment period to a reasonable period (30 mins). This is particularly helpful when numerous people want to speak on the same agenda item. However, this period should be subject to extension on motion of a member of the body or declaration of the chair. Another way to handle a large number of speakers is to request that they select one or more representative speakers to speak for the group and extend the time for those speakers to a time that allows them to fully express the position of the group. If there are speakers on opposing sides of an issue, both sides should be granted somewhat equal opportunity to comment.
 6. Mandate that the comments are to be respectfully, without any vulgarity or personal attacks on any individual;
 7. Clarify that the public comment period is not a question and answer session wherein the members of the public can ask questions and demand answers of members of the body or public employees;
 8. Finally, the policy should contain a general provision granting to the chair of the meeting (Council Chairperson or Police Jury President) the authority to take the actions necessary to uphold the policy and maintain order and decorum in the meeting.
- Adoption of a written policy and the conspicuous posting of that policy in the meeting room will go a long way to maintaining decorum at open meetings and allowing the people's business to proceed in an orderly and efficient manner, while still protecting the people's right to comment on the operations of their government.

