



February 23, 2018

re: Support of House Bill 37

Dear Members of the House State Government Committee,

The Pennsylvania NewsMedia Association is the statewide trade association for print and online news media in Pennsylvania, and counts more than 300 print, digital and related media organizations as members. On behalf of PNA's members, I write to encourage your support for House Bill 37, Printer's Number 44, which amends the Sunshine Act to require agencies obtain legal advice before calling an executive session, to make a verbatim recording of executive sessions and other provisions that promote compliance with the law.

Across Pennsylvania, Sunshine Act compliance is a problem for citizens trying to understand government decisions and participate in government meetings, and enforcing the law is difficult, at best. House Bill 37 proposes a new level of oversight on how agencies claim exceptions and comply with threshold open meeting practices. Too often, agencies err on the side of private discussions, closing what should be open meetings by relying on broad – and often incorrect – interpretations of the Sunshine Act's executive session exemptions. HB 37 will require agencies to obtain legal advice prior to holding an executive session and this makes it less likely that agencies would hold good-intentioned, but ill-informed executive sessions.

Moreover, the bill would also require agencies to make a verbatim recording of an executive session, so that in the event of a challenge, a court could review the recording privately to determine if the executive session was appropriate. A recording is the best evidence of what actually happened during an executive session, and the courts should be provided with the best possible evidence to ensure the public has not been improperly excluded. The bill will promote compliance by offering immunity to agency members who report possible violations in good faith. Finally, clarifying the statutory definition of "deliberation" will allow for more public access to those discussions which greatly affect our communities.

Many agencies ignore the Sunshine Act with impunity, and Pennsylvania's newspapers are filled with examples of agencies improperly excluding the public. For example, in January, the [Scranton School Board](#) decided to layoff 51 teachers and they did so outside a public meeting and without providing an opportunity for public comment prior to the decision. HB 37 will clarify that the public must have access to these discussions that affect daily life, and it will provide additional statutory means for enforcing the law and preventing similar situations in the future.

Sunshine Week is March 11-17, and is intended to educate the public about the importance of open government and the dangers of excessive and unnecessary secrecy. We encourage a positive vote on HB 37 in the House State Government Committee. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Holly Lubart".

Holly Lubart