Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

## Special Committee to Review the Government in the Sunshine Act

**ACTION:** Notice of public hearing regarding the Government in the Sunshine Act.

**SUMMARY:** The ACUS Special Committee to Review the Government in the Sunshine Act will conduct a public hearing to take testimony and statements from agency officials and members of the public concerning the effectiveness of the Government in the Sunshine Act, as it is now implemented by federal boards and commissions. This notice is pursuant to the Federal Advisory Committee Act (Pub. L. 92– 463).

**DATES:** September 12, 1995, 9 a.m. **LOCATION:** Washington, DC (venue to be announced).

FOR FURTHER INFORMATION: Jeffrey Lubbers, (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Chair of the Administrative Conference of the US (ACUS) was asked by letter, signed by over one dozen current and former commissioners of multi-member agencies and several private organizations, to review the effectiveness of the Government in the Sunshine Act. The signatories of the letter stated strong support for the Act's underlying goal of enhancing public understanding of agency decisionmaking, but expressed concern as to whether the Act is, in fact, meeting this goal as well as it might. They also suggested that the Act may have a detrimental effect on collegial deliberation among agency members, thereby reducing the overall quality of decisionmaking at multi-member agencies. The Chair established the Special Committee to study issues raised by the letter.

The Committee, in its open meetings, has heard from some agency officials

and reviewed articles written for ACUS and others to the effect that public meetings under the Act often lack substantive exchange of ideas and collective deliberation on issues being decided. In addition, the Committee has been informed that the restrictions imposed by the Act make spontaneous collegial discussions difficult or impossible as a general matter, adversely affecting the establishment of agency agendas and promoting inefficient practices within agencies. As a result, the Committee is concerned that the public does not receive the information or access to the governmental decisionmaking process that the Act was intended to provide. The Committee has determined that a public hearing is warranted to address proposed suggestions for changes in the Act (or in agency behavior) that will increase collegial decisionmaking among the members of multi-member agencies, and at the same time improve the public's access to the agency's deliberative process.

Toward that end, the Special Committee hereby provides notice of the public hearing and invites the participation of agency officials and other interested persons. It would be helpful if participants would be prepared to discuss or suggest specific proposals for improving public access to agency decisionmaking processes and the quality of agency decisionmaking in agencies subject to the Sunshine Act.

The following proposals are under preliminary consideration by the Committee and are suggested for the purpose of framing the discussion at the public hearing. It should be noted that the order of the proposals is of no particular significance. It may be appropriate to consider some proposals in combination or partial combination with others, or to consider recommending some or all of them on a pilot basis.

(1) The Act could be amended to cover only meetings of the full board or commission.

(2) The Act could be amended to allow subgroups of the full membership of the board or commission to discuss matters in closed session, provided that these matters would later be the subject of open meetings.

(3) The Act could be amended by (1) expanding the current definition of "meeting" to include all get-togethers of a quorum of agency members to discuss any agency business, (i.e., without regard to whether they "determine" agency business) while also (2) permitting any such meeting to be held in closed session if minutes of the meeting were released to the public shortly after the meeting. (However, decisions by the members of an agency would either have to be voted on in public meetings or pursuant to seriatim or notation voting.)

(4) The Act could be amended to allow the closing of additional categories of meetings without notice (or with shorter notice), provided that minutes or transcripts of closed meetings are released soon thereafter.

(5) The Act could be amended to include additional exemptions, such as for agency consideration of legislative and/or budgetary matters—or where the agency certifies that such matters involve especially sensitive issues.

(6) The Act could be amended so that the open meeting requirements do not apply to discussions of agency actions that will be later embodied in a published opinion and order or similar form of agency determination in which the agency members set forth their individual votes and the rationale and basis for their determination (collectively and/or individually to the extent that individual views may differ from the collective determination).

(7) The Act could be amended to remove from coverage any discussion of a proposed rulemaking proceeding so long as the discussion occurs before the publication of a notice of proposed rulemaking [with or without release of minutes or summaries soon thereafter].

(8) The Act could be amended to allow closed meetings (if no votes are taken) on pending rulemaking proceedings, so long as the discussions occur during the comment period, or only up to some specified time before the proposed rule is subject to a vote [with or without release of minutes or summaries soon thereafter].

(9) The Act could be amended to require that any votes taken through notation voting, that would otherwise be required to be taken at an open meeting, be subject to discussion, upon the request of an agency member, in a subsequent open meeting.

(10) Agencies could be encouraged to develop regulations (or policies) that maximize the amount of information