

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

3RD CONFERENCE COMMITTEE

SUBSTITUTE FOR ENGROSSED

SENATE BILL NO. 669

By: Robinson of the Senate

and

Anthony of the House

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to telecommunications and public records; renaming certain committee; amending 62 O.S. 1991, Section 41.5e, which relates to submission of plans by state agencies; deleting obsolete language; restricting scope of requirement; modifying topics to be included; requiring certain review and analysis; eliminating certain report requirements; amending Section 1, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5m), as amended by Section 4 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, which relates to the Oklahoma Government Telecommunications Network; removing certain specific report requirement; requiring submission of certain information by state agencies and education entities; authorizing certain actions by certain networks; prohibiting certain actions by certain networks; amending Section 2, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5n), as last amended by Section 5 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, which relates to the State Data Processing and Telecommunications Advisory Committee; changing membership and duties of the Committee; clarifying certain language; providing for certain legal assistance; amending 51 O.S. 1991, Section 24A.1, which relates to certain short title; redesignating references to sections comprising the Oklahoma Open Records Act; amending 51 O.S. 1991, Section 24A.3, as amended by Section 1, Chapter 39, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.3), which relates to definitions; expanding certain definitions; adding certain definition; restating certain exception; amending 51 O.S. 1991, Section 24A.5, as last amended by Section 7, Chapter 97, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.5), which relates to inspection, copying, and reproduction of records; specifying determination of charges for records provided in certain formats; prohibiting certain actions with respect to certain purposes; requiring provision of certain records in certain formats; making exception; requiring certain computer programs that allow certain segregation of information; specifying that certain actions to segregate records not create records; amending 51 O.S. 1991, Section 24A.9, which relates to certain personal papers;

specifying conditions which determine whether the papers are confidential or public; stating certain duties of the Office of State Finance; providing for promulgation of rules pursuant to Administrative Procedures Act; providing criteria for charges for certain access to public records; providing limitation of certain charges; authorizing contracts for the sale of public records in formats other than paper; establishing contract parameters; providing procedures for the review of certain proposed contracts; making certain contracts null and void and of no effect; amending 25 O.S. 1991, Section 307, as last amended by Section 13, Chapter 384, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307), which relates to Oklahoma Open Meeting Act; authorizing certain executive session; allowing certain matters be confidential; requiring certain docket references and actions relating thereto; providing for codification; repealing Section 1, Chapter 152, O.S.L. 1993 (17 O.S. Supp. 1994, Section 140), which relates to locating fiber optic lines, and 62 O.S. 1991, Section 41.5k, as last amended by Section 3 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, which relates to the Joint Legislative Committee on Data Processing and Telecommunication; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.5n-1 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State Data Processing and Telecommunications Advisory Committee, referred to in Section 43 of Article X of the Oklahoma Constitution and in Section 57.303 of Title 62 of the Oklahoma Statutes and elsewhere in the Oklahoma Statutes, is hereby renamed and shall be known as the Telecommunications and Computerization Oversight Committee.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 41.5e, is amended to read as follows:

Section 41.5e ~~Not later than September 1, 1984, and not less than annually thereafter all~~ All agencies of the ~~state~~ executive branch presently using or contemplating the use of ~~electronic data processing~~ computer applications or telecommunications equipment, including but not limited to, the use of mainframe computers, minicomputers, or ~~microcomputers, word processing equipment, or office automation systems~~ geographic information systems, or local area or wide area network hardware or software, shall submit to

the Information Services Division, annually, a long-range plan, summarizing the agency's detailed plan, for not less than the ensuing three (3) fiscal years, which shall include as a minimum:

1. An overview of major projects and objectives;
2. Estimated resource requirements including personnel, hardware, ~~and software,~~ and the purchase of on-line services;
3. Key project dates;
4. Project priorities;
5. Estimated project costs and benefits;
6. Revisions to previous plans;
7. Specific segments which will be included in the agency budget request for the next ensuing fiscal year; and

8. Such other information as the Information Services Division may require for analysis and consolidation into a statewide plan for ~~electronic data processing~~ computerization and telecommunications.

~~After June 30, 1985, no~~ No agency of the state shall enter into any agreement for the acquisition, development, or enhancement of application systems software, or for the acquisition of electronic data processing network equipment or software, or for peripheral devices whether or not connected to such equipment, unless the cost of such acquisition, development, or enhancement has been included in said agency's plan.

The Information Services Division ~~upon review of an agency's data processing and telecommunication plan~~ shall review and analyze the agencies' plans and write a comprehensive report which the Director of State Finance shall submit in writing to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairman Chair of the Joint Legislative Committee on Data Processing and Telecommunication its Telecommunications and Computerization Oversight Committee. The report shall include findings and recommendations on all proposed new and expanded programs ~~and expenditures for personnel and the purchase or acquisition of equipment, hardware and software or accessories thereto, including but not limited to leases, rentals or lease-purchase, indicating~~

~~that the associated cost meet or comply with Section 41.5a of this title.~~

SECTION 3. AMENDATORY Section 1, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5m), as amended by Section 4 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 41.5m A. There is hereby created a wide area telecommunications network to be known and referred to as the "Oklahoma Government Telecommunications Network (OGTN)". The OGTN shall consist of the telecommunications systems and networks of educational entities and agencies of state government.

B. Notwithstanding the provisions of subsection A of this section:

1. The Oklahoma State Regents for Higher Education may continue to operate, maintain and enhance the State Regents Educational Telecommunications Network; provided, however, the Oklahoma State Regents for Higher Education shall submit all plans for the enhancement of the State Regents Educational Telecommunications Network to the Office of State Finance for review and approval within the context of the statewide telecommunications network provided for in subsection C of this section and shall participate with the Office of State Finance in joint efforts to provide services for the OGTN; and

2. The Department of Public Safety may continue to operate, maintain and enhance the statewide law enforcement data communications network provided for in Section 2-124 of Title 47 of the Oklahoma Statutes; provided, however, the Department of Public Safety shall submit all plans for the enhancement of the statewide law enforcement data communications network to the Office of State Finance for review and approval and shall participate with the Office of State Finance in joint efforts to provide services for the OGTN.

C. The Office of State Finance shall be responsible for developing, operating and maintaining the OGTN. The purposes of the OGTN shall include the following:

1. Development of a comprehensive, unified statewide telecommunications network to effectively and efficiently meet the communication needs of educational entities and agencies of state government;

2. Effective and efficient utilization of existing telecommunications systems operated by educational entities and agencies of state government; and

3. Elimination and prevention of unnecessarily duplicative telecommunications systems operated by educational entities and agencies of state government.

D. In developing, operating and maintaining the OGTN, the Office of State Finance shall:

1. Develop a statewide master plan for meeting the communications needs of educational entities and of agencies of state government. ~~To facilitate the development of a statewide master plan as provided for in this paragraph:~~

- ~~a. the Oklahoma State Regents for Higher Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of each member of The Oklahoma State System of Higher Education. For purposes of developing such report, each member shall cooperate with and submit to the State Regents a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,~~
- ~~b. the State Superintendent of Public Instruction shall submit a report annually to the Director of State Finance identifying the telecommunications plans of the public common school system of the state. For purposes of developing such report, the respective public elementary and secondary schools shall cooperate with and submit to the State Superintendent a plan of their telecommunications~~

~~needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,~~

~~e. the State Director of Vocational and Technical Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of area vocational-technical school districts. For purposes of developing such report, each area vocational-technical school district as defined in Section 14-108 of Title 70 of the Oklahoma Statutes shall cooperate with and submit to the State Director of Vocational and Technical Education a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,~~

~~d. the chief administrative officer of each state agency of the executive branch shall submit a plan annually to the Director of State Finance identifying the telecommunications needs of the state agency, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services, and~~

~~e. the Director of the Oklahoma Department of Libraries shall submit a report annually to the Director of State Finance identifying the telecommunications plans of public libraries and public library systems. For purposes of developing such report, the chief administrative officer of any public library or public library system not otherwise~~

~~required to submit a plan of its telecommunications needs pursuant to the provisions of this paragraph shall cooperate with and submit annually to the Director of the Oklahoma Department of Libraries a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records and the use of telecommunications equipment or services. To assure inclusion in the report of the plans of the telecommunications needs of any library that is a part of any member of The Oklahoma State System of Higher Education, a public elementary or secondary school, or area vocational-technical school district, all such plans relating to libraries received by the Oklahoma State Regents for Higher Education, the State Superintendent of Higher Education, and the State Director of Vocational and Technical Education shall be submitted to the Director of the Oklahoma Department of Libraries by the respective recipients thereof as soon as practicable after receipt. The Director of the Oklahoma Department of Libraries shall certify to the Office of State Finance that such plans are consistent with the plan developed by the Oklahoma Library Technology Network or explain any inconsistencies therewith;~~

2. Identify the most cost-effective means of meeting the telecommunications needs of educational entities and of agencies of state government;

3. Develop minimum mandatory standards and protocols for equipment, facilities and services of the OGTN;

4. Evaluate the advantages and disadvantages of utilizing equipment, facilities, and services of both private entities and those owned and operated by the state;

5. Recommend a fee structure to provide for the operation and maintenance of the OGTN; and

6. Seek the advice of the ~~State Data Processing and Telecommunications Advisory~~ and Computerization Oversight Committee created by Section 41.5n of this title.

E. All state agencies, institutions and constituent agencies of The Oklahoma State System of Higher Education and public school districts shall submit to the Office of State Finance all information requested by that office toward meeting its responsibilities pursuant to subsection D of this section.

F. The Oklahoma Government Telecommunications Network (OGTN) or its component networks may provide means of transmission whereby state agencies or other public bodies provide public records; and the OGTN or its component networks may collect and remit fees or charges to the state agencies or other public bodies that are providing the public records; but the OGTN or its component networks shall not acquire or sell public records except as agents for the state agencies or other public bodies having custody of or responsibility for the records.

SECTION 4. AMENDATORY Section 2, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5n), as last amended by Section 5 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 41.5n A. There is hereby created, to continue until July 1, 1998, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a ~~State Data Processing and Telecommunications Advisory~~ and Computerization Oversight Committee. The Committee shall assist the Office of State Finance in addressing the state's ~~data processing~~ computerization and telecommunications needs. The Committee shall consist of ~~twenty-six (26)~~ twenty-nine (29) members, nine of whom shall be voting members and ~~seventeen~~ twenty of whom shall be ex officio nonvoting members. Voting members shall include three members of the House of Representatives appointed by the Speaker of the House of Representatives, three members of the State Senate appointed by the President Pro Tempore

of the Senate, two members appointed by the Governor, and the Director of the Office of State Finance or the Director's designee. Ex officio nonvoting members shall include the chief administrative officer of each of the following state agencies or ~~his or her~~ designee:

1. State Department of Education;
2. Oklahoma State Regents for Higher Education;
3. Department of Public Safety;
4. Department of Human Services;
5. Department of Commerce;
6. Department of Libraries;
7. Oklahoma Educational Television Authority;
8. Oklahoma Corporation Commission;
9. State Department of Vocational and Technical Education;
10. Department of Corrections;
11. Oklahoma Tourism and Recreation Department;
12. State Department of Health;
13. Oklahoma Tax Commission;
14. Office of Personnel Management;
15. State Election Board; ~~and~~
16. Department of Mental Health and Substance Abuse Services;
17. Department of Transportation;
18. Oklahoma Turnpike Authority;
19. Oklahoma Conservation Commission; and
20. Oklahoma Health Care Authority.

The remaining ex officio nonvoting position shall be rotated among other state agencies at the discretion of the Governor. The ~~chairmanship~~ chair of the Committee shall alternate every two (2) years among the House of Representatives, the Senate and the Director of the Office of State Finance at the beginning of each odd-numbered year. Meetings of the Committee shall be called by the ~~Chairman~~ chair not less than two times each year and shall be open to data processing and telecommunications managers from all state agencies. A majority of the voting members of the Committee shall constitute a quorum.

B. ~~Members of the State Data Processing and Telecommunications Advisory and Computerization Oversight~~ Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. Legislative members of the Committee shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the Committee shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

C. The Attorney General or a designee thereof shall provide legal assistance to the Committee whenever requested to do so by the Chair.

D. The duties of the ~~State Data Processing and Telecommunications Advisory and Computerization Oversight~~ Committee shall include:

1. Advising the Office of State Finance in the development of a statewide master plan for telecommunications and in the development of the Oklahoma Government Telecommunications Network created in Section 41.5m of this title as an efficient, secure, and reliable means whereby public schools, public institutions of higher education, state agencies and county and municipal agencies, other public agencies, public trusts, and other instrumentalities of the state can exchange voice, data, and video communication;

2. Providing a forum for discussion of major issues facing state agencies in the areas of ~~data processing~~ computerization and telecommunications;

3. ~~Advising the Information Services Division of the Office of State Finance on the development and implementation of statewide data processing policies~~ Reviewing agency budget requests for new and expanded programs in the areas of computerization and telecommunications and making such

recommendations as it deems necessary to the appropriations committees of the Legislature; and

4. Making recommendations to the Office of State Finance for expenditures for telecommunications as provided in Section 57.303 of this title and Section 43 of Article X of the Oklahoma Constitution; provided, ~~however, no such~~ the recommendations shall not become final and no such expenditures shall be made unless approved by the Contingency Review Board;

5. Reviewing draft rules proposed for promulgation by the Office of State Finance that set maximum charges state agencies shall assess for provision of public records in formats other than paper; and

6. Ensuring that plans for development of telecommunications networks, and for the operation thereof, provide for security policies, hardware, and software sufficient to preserve the confidentiality of information entrusted to the network.

SECTION 5. AMENDATORY 51 O.S. 1991, Section 24A.1, is amended to read as follows:

Section 24A.1 Sections 24A.1 through ~~24A.19~~ 24A.22 of this title and ~~Section 7~~ Sections 9 and 10 of this act shall be known as the "Oklahoma Open Records Act".

SECTION 6. AMENDATORY 51 O.S. 1991, Section 24A.3, as amended by Section 1, Chapter 39, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.3), is amended to read as follows:

Section 24A.3 Definitions. As used in ~~this act~~ the Oklahoma Open Records Act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" shall also mean data files created by or used with computer software but shall not

include the computer software itself. "Record" does not mean computer software, nongovernment personal effects or, unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Turnpike Authority obtained in connection with the Authority's electronic toll collection system, personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean ~~judges, justices,~~ the State Legislature, ~~or State Legislators;~~

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein. Except for the records required by Section 24A.4 of this title, "public official" does not mean judges, justices or state legislators; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation; and

6. "State agency" means any agency, department, board, or commission of state government that is not excluded from the definition of public body provided herein.

SECTION 7. AMENDATORY 51 O.S. 1991, Section 24A.5, as last amended by Section 7, Chapter 97, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.5), is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges; or
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, ~~provided however, the~~. The Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, and/or mechanical reproduction.

Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents (\$0.25) per page for documents having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. For the purposes of this section, only such charges as do not exceed the maximum prescribed pursuant to Section 9 of this act shall be assessed by a state agency for the provision of public information in a format other than paper. However, if the request is:

- a. solely for ~~commercial purpose~~ the convenience of a buyer; or
- b. clearly would cause excessive disruption of the public body's essential functions;

then the public body may charge a reasonable fee to recover the direct cost of document search. No public body shall be required to expend public resources to create, segregate, analyze, or format records solely for the convenience of a buyer.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

Said fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied

and/or mechanically reproduced for the purpose of sale of such information.

5. In response to open record requests for records in formats other than paper, a state agency shall be required to furnish access to the records or copies of the records in any format used by the state agency in the normal performance of its duties. A state agency shall not be required to furnish copies of records in any format which is not used by the state agency in the normal performance of its duties.

6. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

~~6.~~ 7. In response to a specific open records request, any public body which maintains a computer database that commingles public records, other than land records, with records specifically required by law to be kept confidential shall, for newly created, modified, or upgraded applications, devise or modify a computer program for the segregation of public information from the database. Fulfillment of a request to copy or mechanically reproduce the public record portion of a database in machine-readable form, while segregating those records in the database specifically required by law to be kept confidential, shall not be considered the creation of a new record.

8. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one such person shall be available at all times to release records during the regular business hours of the public body.

SECTION 8. AMENDATORY 51 O.S. 1991, Section 24A.9, is amended to read as follows:

Section 24A.9 ~~Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal~~ Personal notes and personally created materials ~~other than departmental budget requests of a public body prepared as an aid to memory,~~ or personal research

leading to the which precedes action or adoption of a public policy or the implementation of a public project by a public official, may be kept confidential. However, unless otherwise exempted by law, personal notes, personally created materials, or personal research, regardless of purpose, which are disseminated outside the public body or provided to members of the governing board of the public body shall be available to the public at the same time the notes, materials, or research are disseminated or provided. Agency memoranda, research, notes, or other materials that describe or set forth action by an agency or a public official or adoption of agency policy shall be open.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24A.23 of Title 51, unless there is created a duplication in numbering, reads as follows:

The Office of State Finance, by rules promulgated pursuant to Article I of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall establish maximum amounts to be charged for electronic access to public records, including, but not limited to, charges for computer discs, tapes, audio cassettes, and other electronic or machine-readable information storage devices when an agency of state government furnishes information on such storage media. The charges shall be based on recovery of direct costs for central processing unit time, programming, and such other direct costs as the Office of State Finance identifies as required for reproduction of public records in formats other than paper. The cost for central processing time shall be the cost for the actual time required to electronically transfer public records from computer storage to the nonpaper format. The cost for programming shall be limited to the actual and direct programming cost for retrieving and electronically transferring the records but shall not include cost for segregating public records from confidential records. If a state agency already possesses programs that are capable of retrieving public records, no cost for programming shall be included in the determination of the charge. Actual and direct costs of retrieval of public records shall not include the cost of

Req. No. 1479Page 16

computer hardware or software or utility or other support costs of retrieval of public records. Only such charges as do not exceed the maxima established by the Office of State Finance as provided in this section shall be assessed by a state agency for electronic access to public records.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24A.24 of Title 51, unless there is created a duplication in numbering, reads as follows:

State agencies that are otherwise authorized by law to sell public records may contract for the provision and sale of the records in formats other than paper. The charges for the records shall not exceed typical charges found elsewhere in government and in industry for similar provision of data. The contracts shall contain terms governing the determination of charges, manner of payment, and means of delivery of the public information, and shall specify the statutory authority permitting the sale of the information. Proposed contracts of state agencies of the executive branch shall be reviewed by the Attorney General. All contracts must satisfy the minimum parameters for the contracts prescribed by this section and must be in pursuance of lawful duties of the state agency. Contracts not in compliance with the provisions of this section shall be null and void and of no effect.

SECTION 11. AMENDATORY 25 O.S. 1991, Section 307, as last amended by Section 13, Chapter 384, O.S.L. 1994 (25 O.S. Supp. 1994, Section 307), is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;

3. Discussing the purchase or appraisal of real property;

4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;

5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or his parent, attorney or legal guardian;

6. Discussing matters involving a specific handicapped child;

7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law; or

8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would

interfere with the development of patents, copyrights, products, or services;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes; ~~and~~

8. The Telecommunications and Computerization Oversight Committee and any subcommittee thereof or other public body responsible for the oversight, management, or operation of the Oklahoma Government Telecommunications Network (OGTN) or component network thereof, for purposes of discussing or taking action in regard to telecommunications network security or related computer security matters, which discussions or actions shall be confidential if so determined by the body; provided, actions contemplated shall be referenced only by docket number in the agenda of the body, and an action taken on such matter shall be voted in open meeting by reference to the docket number; and

9. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any

vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member ~~publically~~ publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and
2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

SECTION 12. REPEALER Section 1, Chapter 152, O.S.L. 1993 (17 O.S. Supp. 1994, Section 140), is hereby repealed.

SECTION 13. REPEALER 62 O.S. 1991, Section 41.5k, as last amended by Section 3 of Enrolled House Bill No. 1027 of the 1st Session of the 45th Oklahoma Legislature, is hereby repealed.

SECTION 14. This act shall become effective November 1, 1995.

45-1-1479 WHT