

SB 1120

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1120
As Amended

SENATE BILL NO. 1120 - By: Sykes of the Senate and Terrill of the House.

[law enforcement - executive sessions - officers and deputies - effective date]

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

SECTION 1. AMENDATORY 25 O.S. 2001, Section 307, as last amended by Section 11, Chapter 1, O.S.L. 2006 (25 O.S. Supp. 2008, 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

1 public body, with the advice of its attorney, determines that
2 disclosure will seriously impair the ability of the public body to
3 process the claim or conduct a pending investigation, litigation, or
4 proceeding in the public interest;

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

9 6. Discussing matters involving a specific handicapped child;

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

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

15 9. Discussing the following:

16 a. the investigation of a plan or scheme to commit an act
17 of terrorism,

18 b. assessments of the vulnerability of government
19 facilities or public improvements to an act of
20 terrorism,

21 c. plans for deterrence or prevention of or protection
22 from an act of terrorism,

- 1 d. plans for response or remediation after an act of
2 terrorism,
- 3 e. information technology of the public body but only if
4 the discussion specifically identifies:
- 5 (1) design or functional schematics that demonstrate
6 the relationship or connections between devices
7 or systems,
- 8 (2) system configuration information,
- 9 (3) security monitoring and response equipment
10 placement and configuration,
- 11 (4) specific location or placement of systems,
12 components or devices,
- 13 (5) system identification numbers, names, or
14 connecting circuits,
- 15 (6) business continuity and disaster planning, or
16 response plans, or
- 17 (7) investigation information directly related to
18 security penetrations or denial of services, or
- 19 f. the investigation of an act of terrorism that has
20 already been committed.

21 For the purposes of this subsection, the term "terrorism" means
22 any act encompassed by the definitions set forth in Section 1268.1
23 of Title 21 of the Oklahoma Statutes.

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

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

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

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

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

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

14 6. The Oklahoma Health Research Committee for purposes of
15 conferring on matters pertaining to research and development of
16 products, if public disclosure of the matter discussed would
17 interfere with the development of patents, copyrights, products, or
18 services;

19 7. A review committee, as provided for in Section 855 of Title
20 62 of the Oklahoma Statutes;

21 8. The Child Death Review Board for purposes of receiving and
22 conferring on matters pertaining to materials declared confidential
23 by law;

1 9. The Domestic Violence Fatality Review Board as provided in
2 Section 1601 of Title 22 of the Oklahoma Statutes;

3 10. All nonprofit foundations, boards, bureaus, commissions,
4 agencies, trusteeships, authorities, councils, committees, public
5 trusts, task forces or study groups supported in whole or part by
6 public funds or entrusted with the expenditure of public funds for
7 purposes of conferring on matters pertaining to economic
8 development, including the transfer of property, financing, or the
9 creation of a proposal to entice a business to remain or to locate
10 within their jurisdiction if public disclosure of the matter
11 discussed would interfere with the development of products or
12 services or if public disclosure would violate the confidentiality
13 of the business;

14 11. The Oklahoma Indigent Defense System Board for purposes of
15 discussing negotiating strategies in connection with making possible
16 counteroffers to offers to contract to provide legal representation
17 to indigent criminal defendants and indigent juveniles in cases for
18 which the System must provide representation pursuant to the
19 provisions of the Indigent Defense System Act; ~~and~~

20 12. The Quality Investment Committee for purposes of discussing
21 applications and confidential materials pursuant to the terms of the
22 Oklahoma Quality Investment Act; and

1 13. All law enforcement boards, bureaus, commissions and task
2 forces for purposes of discussing ongoing criminal investigations,
3 targets or pending legal cases.

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

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

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

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

18 3. Except for matters considered in executive sessions of the
19 State Banking Board and the Oklahoma Savings and Loan Board, and
20 which are required by state or federal law to be confidential, any
21 vote or action on any item of business considered in an executive
22 session shall be taken in public meeting with the vote of each
23 member publicly cast and recorded.

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

2 1. Subject each member of the public body to criminal sanctions
3 as provided in Section 314 of this title; and

4 2. Cause the minutes and all other records of the executive
5 session, including tape recordings, to be immediately made public.

6 SECTION 2. AMENDATORY 51 O.S. 2001, Section 6, as last
7 amended by Section 1, Chapter 170, O.S.L. 2007 (51 O.S. Supp. 2008,
8 Section 6), is amended to read as follows:

9 Section 6. A. Except as may be otherwise provided, no person
10 holding an office under the laws of the state and no deputy of any
11 officer so holding any office shall, during the person's term of
12 office, hold any other office or be the deputy of any officer
13 holding any office, under the laws of the state. The provisions of
14 this section shall not apply to:

15 1. Notaries public;

16 2. Members of the State Textbook Committee;

17 3. County free fair board members;

18 4. Municipal and county law enforcement officers serving in
19 positions as law enforcement officers of both such governmental
20 entities upon such terms and conditions as are mutually approved by
21 resolutions adopted by the board of county commissioners and
22 governing body of the municipality employing such officers;

1 5. Any person holding a county or municipal office or position,
2 or membership on any public trust authority, who is a member of a
3 board or commission that relates to federal, state, county or
4 municipal government and is created by the United States Government,
5 the State of Oklahoma or a political subdivision of the state,
6 except where the duties of the offices or positions conflict;

7 6. Any elected municipal officers and school board members who
8 are appointed to a state board, commission, or similar entity if
9 there is no compensation for such services other than reimbursement
10 for necessary travel expenses pursuant to the provisions of the
11 State Travel Reimbursement Act;

12 7. Any trustee of a public trust, who is appointed as a trustee
13 of a different public trust or any trustee of the Tulsa County
14 Public Facilities Authority who may also be employed by the
15 Department of Transportation;

16 8. Law enforcement officers employed by municipal or county law
17 enforcement departments or agencies, other than those law
18 enforcement officers elected or appointed as sheriff, chief of
19 police or some similar position in which they are the head of a
20 county or municipal law enforcement agency, who are elected to local
21 boards of education; provided, the provisions of this paragraph
22 shall not prohibit any law enforcement officer employed by a

1 municipality having a population of ten thousand (10,000) or fewer
2 people from serving as a member of a local board of education;

3 9. Any member of the Oklahoma Highway Patrol Division of the
4 Department of Public Safety who is elected to a local board of
5 education;

6 10. Any District Supervisor, Assistant District Supervisor,
7 Team Supervisor, Parole Officer 1 or Parole Officer 2 of the
8 Department of Corrections who is elected or appointed to a city
9 council;

10 11. Any trustee or director of a rural electric cooperative, or
11 port authority who is appointed or elected to a state, county or
12 municipal board, commission or similar entity;

13 12. County employees who are elected as members of town or city
14 councils;

15 13. Municipal, county, state ~~or~~, campus police, tribal law
16 enforcement or peace officers operating under one or more cross-
17 deputization agreements with each other or with an Indian tribe or
18 branch of the federal government;

19 14. Municipal or county law enforcement or peace officers
20 serving in positions as campus police officers or campus public
21 safety officers pursuant to the provisions of the Oklahoma Campus
22 Security Act, upon such terms and conditions as are mutually
23 approved by resolution adopted by the governing body of the

1 municipality or county and the governing board of the institution of
2 higher education;

3 15. State law enforcement or peace officers serving in
4 positions as campus police officers or campus public safety officers
5 pursuant to the provisions of the Oklahoma Campus Security Act, upon
6 such terms and conditions as are mutually approved by written
7 agreement between the Commissioner of Public Safety and the
8 governing board of the institution of higher education;

9 16. Municipal and county law enforcement officers serving in
10 positions as part-time rangers under the Oklahoma Tourism and
11 Recreation Department;

12 17. The Administrator of a Scenic Rivers Commission serving in
13 the position of a park ranger under the Oklahoma Tourism and
14 Recreation Department;

15 18. Members of the University Hospitals Authority;

16 19. Any person holding a state office or position who is a
17 reserve force deputy sheriff or a reserve municipal police officer;

18 20. Any person holding a state office or position who serves as
19 a special assistant district attorney without compensation;

20 21. Any elected or appointed member of a local school board who
21 is a member of a municipal planning commission;

22 22. Any elected or appointed member of a local school board who
23 is a member or an officer of a volunteer fire department;

1 23. Directors or officers of a rural water district and chiefs
2 of municipal fire departments or rural fire districts who are
3 appointed or elected to an unsalaried office in a state, county,
4 municipal, school, or technology center school board, commission, or
5 similar entity, except where the duties of the office would create a
6 conflict of interest;

7 24. Any person who is a dispatcher or confinement officer at a
8 municipal or county jail who is a noncompensated reserve municipal
9 police officer or a reserve deputy sheriff;

10 25. Any person who is an assistant district attorney serving as
11 a municipal judge or prosecutor;

12 26. Any park ranger under the Oklahoma Tourism and Recreation
13 Department who is elected or appointed to a local board of education
14 or to a municipal board, commission or similar entity; and

15 27. Members of the Oklahoma State University Medical Center
16 Authority or the Oklahoma State University Medical Trust.

17 The provisions of this section shall not prohibit any person
18 holding an office under the laws of the state or any deputy of any
19 officer so holding any office from serving upon the board of
20 Oklahoma Futures or upon the board of directors of the Oklahoma
21 Center for the Advancement of Science and Technology. The
22 provisions of this section shall not prohibit a member of the board

1 of directors of the Oklahoma Center for the Advancement of Science
2 and Technology from serving upon the board of Oklahoma Futures.

3 B. Any salaries, emoluments or benefits that would otherwise be
4 paid by the agency or political subdivision to a loaned employee or
5 officer shall instead be paid to the regular employer of such
6 employee. The loaned employee shall in turn be paid regular salary
7 and benefits the same as if continuing regular employment with the
8 permanent employer.

9 SECTION 3. This act shall become effective November 1, 2009.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO
11 PASS, As Amended and Coauthored.