

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1085

By: Murphey

4  
5  
6 AS INTRODUCED

7 An Act relating to public bodies; amending 25 O.S.  
8 2001, Section 304, as last amended by Section 4,  
9 Chapter 378, O.S.L. 2010 (25 O.S. Supp. 2010, Section  
10 304), which relates to the Oklahoma Open Meeting Act;  
11 adding the Legislature to definition of public body;  
12 removing the Legislature from exclusion of definition  
13 of public body; amending 51 O.S. 2001, Sections  
14 24A.3, as last amended by Section 4, Chapter 199,  
15 O.S.L. 2005 and 24A.5, as last amended by Section 34,  
16 Chapter 16, O.S.L. 2006 (51 O.S. Supp. 2010, Sections  
17 24A.3 and 24A.5), which relate to the Oklahoma Open  
18 Records Act; adding the Legislature to definition of  
19 public body; removing the Legislature or legislators  
20 from exclusion of definition of public body;  
21 excluding documentation of certain communications in  
22 which legislator is intended recipient; repealing 25  
23 O.S. 2001, Section 309, which relates to meetings  
24 conducted by the Legislature; and providing an  
effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2001, Section 304, as last  
amended by Section 4, Chapter 378, O.S.L. 2010 (25 O.S. Supp. 2010,  
Section 304), is amended to read as follows:

Section 304. As used in the Oklahoma Open Meeting Act:

1           1. "Public body" means the Legislature, the governing bodies of  
2 all municipalities located within this state, boards of county  
3 commissioners of the counties in this state, boards of public and  
4 higher education in this state and all boards, bureaus, commissions,  
5 agencies, trusteeships, authorities, councils, committees, public  
6 trusts or any entity created by a public trust, including any  
7 committee or subcommittee composed of any of the members of a public  
8 trust or other legal entity receiving funds from the Rural Economic  
9 Action Plan Fund as authorized by Section 2007 of Title 62 of the  
10 Oklahoma Statutes, task forces or study groups in this state  
11 supported in whole or in part by public funds or entrusted with the  
12 expending of public funds, or administering public property, and  
13 shall include all committees or subcommittees of any public body.  
14 Public body shall not include the state judiciary, the Council on  
15 Judicial Complaints when conducting, discussing, or deliberating any  
16 matter relating to a complaint received or filed with the Council,  
17 ~~the Legislature~~, or administrative staffs of public bodies,  
18 including, but not limited to, faculty meetings and athletic staff  
19 meetings of institutions of higher education when those staffs are  
20 not meeting with the public body, or entry-year assistance  
21 committees. Furthermore, public body shall not include the  
22 multidisciplinary team provided for in subsection C of Section 1-  
23 502.2 of Title 63 of the Oklahoma Statutes or any school board  
24 meeting for the sole purpose of considering recommendations of a

1 multidisciplinary team and deciding the placement of any child who  
2 is the subject of the recommendations. Furthermore, public body  
3 shall not include meetings conducted by stewards designated by the  
4 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title  
5 3A of the Oklahoma Statutes when the stewards are officiating at  
6 races or otherwise enforcing rules of the Commission;

7 2. "Meeting" means the conduct of business of a public body by  
8 a majority of its members being personally together or, as  
9 authorized by Section 307.1 of this title, together pursuant to a  
10 videoconference. Meeting shall not include informal gatherings of a  
11 majority of the members of the public body when no business of the  
12 public body is discussed;

13 3. "Regularly scheduled meeting" means a meeting at which the  
14 regular business of the public body is conducted;

15 4. "Special meeting" means any meeting of a public body other  
16 than a regularly scheduled meeting or emergency meeting;

17 5. "Emergency meeting" means any meeting called for the purpose  
18 of dealing with an emergency. For purposes of the Oklahoma Open  
19 Meeting Act, an emergency is defined as a situation involving injury  
20 to persons or injury and damage to public or personal property or  
21 immediate financial loss when the time requirements for public  
22 notice of a special meeting would make such procedure impractical  
23 and increase the likelihood of injury or damage or immediate  
24 financial loss;

1       6. "Continued or reconvened meeting" means a meeting which is  
2 assembled for the purpose of finishing business appearing on an  
3 agenda of a previous meeting. For the purposes of the Oklahoma Open  
4 Meeting Act, only matters on the agenda of the previous meeting at  
5 which the announcement of the continuance is made may be discussed  
6 at a continued or reconvened meeting; and

7       7. "Videoconference" means a conference among members of a  
8 public body remote from one another who are linked by interactive  
9 telecommunication devices permitting both visual and auditory  
10 communication between and among members of the public body and  
11 members of the public. During any videoconference both the visual  
12 and auditory communications functions of the device shall be  
13 utilized. Whenever the term "teleconference" appears in any law in  
14 relation to a meeting of a public body, it shall be deemed to mean a  
15 videoconference as defined in this paragraph.

16       SECTION 2.       AMENDATORY       51 O.S. 2001, Section 24A.3, as  
17 last amended by Section 4, Chapter 199, O.S.L. 2005 (51 O.S. Supp.  
18 2010, Section 24A.3), is amended to read as follows:

19       Section 24A.3 As used in this act:

20       1. "Record" means all documents, including, but not limited to,  
21 any book, paper, photograph, microfilm, data files created by or  
22 used with computer software, computer tape, disk, record, sound  
23 recording, film recording, video record or other material regardless  
24 of physical form or characteristic, created by, received by, under

1 the authority of, or coming into the custody, control or possession  
2 of public officials, public bodies, or their representatives in  
3 connection with the transaction of public business, the expenditure  
4 of public funds or the administering of public property. "Record"  
5 does not mean:

- 6 a. computer software,
- 7 b. nongovernment personal effects,
- 8 c. unless public disclosure is required by other laws or  
9 regulations, vehicle movement records of the Oklahoma  
10 ~~Transportation~~ Turnpike Authority obtained in  
11 connection with the Authority's electronic toll  
12 collection system,
- 13 d. personal financial information, credit reports or  
14 other financial data obtained by or submitted to a  
15 public body for the purpose of evaluating credit  
16 worthiness, obtaining a license, permit, or for the  
17 purpose of becoming qualified to contract with a  
18 public body,
- 19 e. any digital audio/video recordings of the toll  
20 collection and safeguarding activities of the Oklahoma  
21 ~~Transportation~~ Turnpike Authority,
- 22 f. any personal information provided by a guest at any  
23 facility owned or operated by the Oklahoma Tourism and  
24 Recreation Department or the Board of Trustees of the

- 1 Quartz Mountain Arts and Conference Center and Nature  
2 Park to obtain any service at the facility or by a  
3 purchaser of a product sold by or through the Oklahoma  
4 Tourism and Recreation Department or the Quartz  
5 Mountain Arts and Conference Center and Nature Park,  
6 g. a Department of Defense Form 214 (DD Form 214) filed  
7 with a county clerk, including any DD Form 214 filed  
8 before the effective date of this act, or  
9 h. except as provided for in Section 2-110 of Title 47 of  
10 the Oklahoma Statutes,  
11 (1) any record in connection with a Motor Vehicle  
12 Report issued by the Department of Public Safety,  
13 as prescribed in Section 6-117 of Title 47 of the  
14 Oklahoma Statutes,  
15 (2) personal information within driver records, as  
16 defined by the Driver's Privacy Protection Act,  
17 18 United States Code, Sections 2721 through  
18 2725, which are stored and maintained by the  
19 Department of Public Safety, or  
20 (3) audio or video recordings of the Department of  
21 Public Safety;

22 2. "Public body" shall include, but not be limited to, the  
23 Legislature, any office, department, board, bureau, commission,  
24 agency, trusteeship, authority, council, committee, trust or any

1 entity created by a trust, county, city, village, town, township,  
2 district, school district, fair board, court, executive office,  
3 advisory group, task force, study group, or any subdivision thereof,  
4 supported in whole or in part by public funds or entrusted with the  
5 expenditure of public funds or administering or operating public  
6 property, and all committees, or subcommittees thereof. Except for  
7 the records required by Section 24A.4 of this title, "public body"  
8 does not mean judges, justices, or the Council on Judicial  
9 Complaints, ~~the Legislature, or legislators;~~

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

12 4. "Public official" means any official or employee of any  
13 public body as defined herein; and

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

21 SECTION 3. AMENDATORY 51 O.S. 2001, Section 24A.5, as  
22 last amended by Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp.  
23 2010, Section 24A.5), is amended to read as follows:

24

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

4 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28  
5 of this title, does not apply to records specifically required by  
6 law to be kept confidential including:

- 7 a. records protected by a state evidentiary privilege  
8 such as the attorney-client privilege, the work  
9 product immunity from discovery and the identity of  
10 informer privileges,
- 11 b. records of what transpired during meetings of a public  
12 body lawfully closed to the public such as executive  
13 sessions authorized under the Oklahoma Open Meeting  
14 Act, Section 301 et seq. of Title 25 of the Oklahoma  
15 Statutes,
- 16 c. personal information within driver records as defined  
17 by the Driver's Privacy Protection Act, 18 United  
18 States Code, Sections 2721 through 2725, ~~or~~
- 19 d. information in the files of the Board of Medicolegal  
20 Investigations obtained pursuant to Sections 940 and  
21 941 of Title 63 of the Oklahoma Statutes that may be  
22 hearsay, preliminary unsubstantiated investigation-  
23 related findings, or confidential medical information,  
24 or

1           e. documentation of personal communications in which a  
2           legislator is the intended recipient from a person who  
3           is exercising rights secured by the Constitution of  
4           the United States or the Constitution of the State of  
5           Oklahoma and who is not a member of the Legislature  
6           and who is not registered as a lobbyist in accordance  
7           with the rules established by the Oklahoma Ethics  
8           Commission.

9           2. Any reasonably segregable portion of a record containing  
10 exempt material shall be provided after deletion of the exempt  
11 portions; provided however, the Department of Public Safety shall  
12 not be required to assemble for the requesting person specific  
13 information, in any format, from driving records relating to any  
14 person whose name and date of birth or whose driver license number  
15 is not furnished by the requesting person.

16 The Oklahoma State Bureau of Investigation shall not be required to  
17 assemble for the requesting person any criminal history records  
18 relating to persons whose names, dates of birth, and other  
19 identifying information required by the Oklahoma State Bureau of  
20 Investigation pursuant to administrative rule are not furnished by  
21 the requesting person.

22           3. ~~Any~~ For any request for a record which contains individual  
23 records of persons, ~~and~~ when the cost of copying, reproducing or  
24 certifying each individual record is otherwise prescribed by state

1 law, the cost may be assessed for each individual record, or portion  
2 thereof requested as prescribed by state law. Otherwise, a public  
3 body may charge a fee only for recovery of the reasonable, direct  
4 costs of record copying, or mechanical reproduction.

5 Notwithstanding any state or local provision to the contrary, in no  
6 instance shall the record copying fee exceed twenty-five cents  
7 (\$0.25) per page for records having the dimensions of eight and one-  
8 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One  
9 Dollar (\$1.00) per copied page for a certified copy. However, if  
10 the request:

11 a. is solely for commercial purpose, or

12 b. would clearly cause excessive disruption of the  
13 essential functions of the public body,

14 then the public body may charge a reasonable fee to recover the  
15 direct cost of record search and copying; however, publication in a  
16 newspaper or broadcast by news media for news purposes shall not  
17 constitute a resale or use of a record for trade or commercial  
18 purpose and charges for providing copies of electronic data to the  
19 news media for a news purpose shall not exceed the direct cost of  
20 making the copy. The fee charged by the Department of Public Safety  
21 for a copy in a computerized format of a record of the Department  
22 shall not exceed the direct cost of making the copy unless the fee  
23 for the record is otherwise set by law.

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

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

10 The fees shall not be used for the purpose of discouraging  
11 requests for information or as obstacles to disclosure of requested  
12 information.

13 4. The land description tract index of all recorded instruments  
14 concerning real property required to be kept by the county clerk of  
15 any county shall be available for inspection or copying in  
16 accordance with the provisions of the Oklahoma Open Records Act;  
17 provided, however, the index shall not be copied or mechanically  
18 reproduced for the purpose of sale of the information.

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

23 6. A public body shall designate certain persons who are  
24 authorized to release records of the public body for inspection,

1 copying, or mechanical reproduction. At least one person shall be  
2 available at all times to release records during the regular  
3 business hours of the public body.

4 SECTION 4. REPEALER 25 O.S. 2001, Section 309, is hereby  
5 repealed.

6 SECTION 5. This act shall become effective November 1, 2011.

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