

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1810

By: Loring

COMMITTEE SUBSTITUTE

An Act relating to definitions and general provisions; amending 25 O.S. 2011, Section 307, as amended by Section 1, Chapter 109, O.S.L. 2015 (25 O.S. Supp. 2016, Section 307), which relates to the Oklahoma Open Meeting Act; removing reference to defunct public body; authorizing audio or video records of proceedings in certain circumstances; prohibiting certain acts in executive session; providing for punishment for violations; describing certain prohibited actions; and providing an effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as amended by Section 1, Chapter 109, O.S.L. 2015 (25 O.S. Supp. 2016, 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 1. Discussing the employment, hiring, appointment, promotion,
2 demotion, disciplining or resignation of any individual salaried
3 public officer or employee;

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

6 3. Discussing the purchase or appraisal of real property;

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

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

17 6. Discussing matters involving a specific handicapped child;

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

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

23 9. Discussing the following:
24

- a. the investigation of a plan or scheme to commit an act of terrorism,
- b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
- c. plans for deterrence or prevention of or protection from an act of terrorism,
- d. plans for response or remediation after an act of terrorism,
- e. information technology of the public body but only if the discussion specifically identifies:
 - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
 - (2) system configuration information,
 - (3) security monitoring and response equipment placement and configuration,
 - (4) specific location or placement of systems, components or devices,
 - (5) system identification numbers, names, or connecting circuits,
 - (6) business continuity and disaster planning, or response plans, or

(7) investigation information directly related to security penetrations or denial of services, or f. the investigation of an act of terrorism that has already been committed.

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

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

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

3 ~~7.~~ 6. A review committee, as provided for in Section 855 of
4 Title 62 of the Oklahoma Statutes;

5 ~~8.~~ 7. The Child Death Review Board for purposes of receiving
6 and conferring on matters pertaining to materials declared
7 confidential by law;

8 ~~9.~~ 8. The Domestic Violence Fatality Review Board as provided
9 in Section 1601 of Title 22 of the Oklahoma Statutes;

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

21 ~~11.~~ 10. The Oklahoma Indigent Defense System Board for purposes
22 of discussing negotiating strategies in connection with making
23 possible counteroffers to offers to contract to provide legal
24 representation to indigent criminal defendants and indigent

1 juveniles in cases for which the System must provide representation
2 pursuant to the provisions of the Indigent Defense System Act; and

3 ~~12.~~ 11. The Quality Investment Committee for purposes of
4 discussing applications and confidential materials pursuant to the
5 terms of the Oklahoma Quality Investment Act.

6 D. Except as otherwise specified in this subsection, an
7 executive session for the purpose of discussing the purchase or
8 appraisal of real property shall be limited to members of the public
9 body, the attorney for the public body and the immediate staff of
10 the public body. No landowner, real estate salesperson, broker,
11 developer or any other person who may profit directly or indirectly
12 by a proposed transaction concerning real property which is under
13 consideration may be present or participate in the executive
14 session, unless they are operating under an existing agreement to
15 represent the public body.

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

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

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

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

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

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

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

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

9 A public body may elect to record by audio or video the proceedings
10 of an executive session to confidentially preserve the same as is
11 required for the minutes of the executive session, separate from the
12 minutes of the open portions of the meeting, unless it is determined
13 that there is a willful violation of the provisions of this section.
14 If the public body elects to record the proceedings, no other
15 individual legally in the meeting may record those proceedings. If
16 the public body elects not to record the proceedings, then any
17 individual legally in the executive session, or any portion thereof,
18 may record by audio or video the proceedings of the executive
19 session or that portion thereof in which that individual is legally
20 in attendance. Such individual must keep the recording confidential,
21 unless it is determined that there is a willful violation of the
22 provisions of this section.

23 G. The following actions shall constitute a violation of the
24 Oklahoma Open Meeting Act and subject the violating individual to

1 the criminal sanctions as provided in Section 314 of this title as
2 well as civilly liable to the public body for the damages caused by
3 the violation:

4 1. Except as provided in subsection F for a legally permissible
5 recording, making a recording or broadcasting the executive session
6 from inside the room of the session by an individual otherwise
7 legally in the executive session;

8 2. Making any recording by an individual not legally in the
9 executive session, or listening to or broadcasting the executive
10 session, or any part thereof, by any electronic means with any
11 device in the meeting room, which device is not under the control of
12 the public body and without authorization from the public body; or

13 3. Any individual who is legally in the executive session
14 disseminating information learned or discussed during the session to
15 any individual other than an individual who is a member of the
16 public body or such other individual who would normally legally be
17 in attendance of the executive session but was not actually in
18 attendance. Provided however, this provision shall not prohibit an
19 individual from disclosing the fact that that he or she reasonably
20 believes the provisions of this section were violated by members of
21 the public body during the executive session to:

22 a. a law enforcement officer with jurisdiction to
23 investigate such alleged violation, or
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1 b. an individual with an interest in the subject matter
2 discussed during the executive session, or a legal
3 representative thereof, or to a member of the news
4 media for news purposes.

5 Provided further, this provision shall not prohibit an individual
6 from disseminating detailed information learned or discussed during
7 executive session that is later discussed at an open meeting and
8 once such information is discussed in open session it is no longer
9 protected by this section. Further, this provision shall not
10 prohibit an individual from discussing general conclusions he or she
11 has drawn from information learned or discussed in executive
12 session, but such individual may not disseminate the details of that
13 information.

14 SECTION 2. This act shall become effective November 1, 2017.

16 56-1-7191 JBH 02/28/17