

1 ENGROSSED HOUSE
2 BILL NO. 1810

By: Loring of the House
and
Quinn of the Senate

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

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

20 SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as
21 amended by Section 1, Chapter 109, O.S.L. 2015 (25 O.S. Supp. 2016,
22 Section 307), is amended to read as follows:

23 Section 307. A. No public body shall hold executive sessions
24 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:
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- 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

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

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

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

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

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

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

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

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

21 ~~6.~~ The Oklahoma Health Research Committee for purposes of
22 conferring on matters pertaining to research and development of
23 products, if public disclosure of the matter discussed would
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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 upon notice to the public body, may record by audio or video the
19 proceedings of the executive session or that portion thereof in
20 which that individual is legally in attendance. Such individual
21 must keep the recording confidential, unless it is determined by a
22 court with appropriate jurisdiction that there is a willful
23 violation of the provisions of this section.

1 G. The following actions shall constitute a violation of the
2 Oklahoma Open Meeting Act and subject the violating individual to
3 the criminal sanctions as provided in Section 314 of this title as
4 well as civil liability to the public body for the damages caused by
5 the violation:

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

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

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

- 1 a. a law enforcement or prosecutorial agency with
2 jurisdiction to investigate such alleged violation, or
3 b. an individual with a direct interest in the subject
4 matter discussed during the executive session, or a
5 legal representative thereof.

6 Provided further, if detailed information is discussed in an open
7 session of a public meeting after it has been discussed in an
8 executive session, any individual may discuss the detailed
9 information that was discussed in open session.

10 H. A willful violation of the provisions of this section by a
11 public body shall:

12 1. Subject the willfully participating members of the public
13 body to criminal sanctions as provided in Section 314 of this title;
14 and

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

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

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1 Passed the House of Representatives the 20th day of March, 2017.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2017.

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8 Presiding Officer of the Senate