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February 20, 2020

AS AMENDED

SENATE BILL NO. 1842

By: Hall

An Act relating to the Oklahoma Municipal Power Authority; amending 25 O.S. 2011, Section 307, as last amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2019, Section 307), which relates to the Open Meetings Act; authorizing Authority to hold executive sessions for specified purposes; amending 51 O.S. 2011, Section 24A.28, as last amended by Section 9, Chapter 163, O.S.L. 2019 (51 O.S. Supp. 2019, Section 24A.28), which relates to the Oklahoma Open Records Act; authorizing Authority to keep certain records confidential; 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 last amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2019, 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;

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

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

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

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

14 6. Discussing matters involving a specific handicapped child;

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

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

20 9. Discussing matters involving safety and security at state
21 penal institutions or correctional facilities used to house state
22 inmates;

23 10. Discussing contract negotiations involving contracts
24 requiring approval of the Board of Corrections, which shall be

1 limited to members of the public body, the attorney for the public
2 body, and the immediate staff of the public body. No person who may
3 profit directly or indirectly by a proposed transaction which is
4 under consideration may be present or participate in the executive
5 session; or

6 11. Discussing the following:

- 7 a. the investigation of a plan or scheme to commit an act
8 of terrorism,
- 9 b. assessments of the vulnerability of government
10 facilities or public improvements to an act of
11 terrorism,
- 12 c. plans for deterrence or prevention of or protection
13 from an act of terrorism,
- 14 d. plans for response or remediation after an act of
15 terrorism,
- 16 e. information technology of the public body but only if
17 the discussion specifically identifies:
 - 18 (1) design or functional schematics that demonstrate
19 the relationship or connections between devices
20 or systems,
 - 21 (2) system configuration information,
 - 22 (3) security monitoring and response equipment
23 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;

1 5. The Oklahoma Health Research Committee for purposes of
2 conferring on matters pertaining to research and development of
3 products, if public disclosure of the matter discussed would
4 interfere with the development of patents, copyrights, products, or
5 services;

6 6. The Workers' Compensation Commission for the purposes
7 provided for in Section 20 of Title 85A of the Oklahoma Statutes;

8 7. A review committee, as provided for in Section 855 of Title
9 62 of the Oklahoma Statutes;

10 8. The Child Death Review Board for purposes of receiving and
11 conferring on matters pertaining to materials declared confidential
12 by law;

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

15 10. The Opioid Overdose Fatality Review Board, as provided in
16 Section 2-1001 of Title 63 of the Oklahoma Statutes;

17 11. All nonprofit foundations, boards, bureaus, commissions,
18 agencies, trusteeships, authorities, councils, committees, public
19 trusts, task forces or study groups supported in whole or part by
20 public funds or entrusted with the expenditure of public funds for
21 purposes of conferring on matters pertaining to economic
22 development, including the transfer of property, financing, or the
23 creation of a proposal to entice a business to remain or to locate
24 within their jurisdiction if public disclosure of the matter

1 discussed would interfere with the development of products or
2 services or if public disclosure would violate the confidentiality
3 of the business;

4 12. The Oklahoma Indigent Defense System Board for purposes of
5 discussing negotiating strategies in connection with making possible
6 counteroffers to offers to contract to provide legal representation
7 to indigent criminal defendants and indigent juveniles in cases for
8 which the System must provide representation pursuant to the
9 provisions of the Indigent Defense System Act; ~~and~~

10 13. The Quality Investment Committee for purposes of discussing
11 applications and confidential materials pursuant to the terms of the
12 Oklahoma Quality Investment Act; and

13 14. The Oklahoma Municipal Power Authority established pursuant
14 to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and
15 in its role as an electric utility regulated by the federal
16 government, for purposes of discussing security plans and procedures
17 including, but not limited to, cybersecurity matters.

18 D. Except as otherwise specified in this subsection, an
19 executive session for the purpose of discussing the purchase or
20 appraisal of real property shall be limited to members of the public
21 body, the attorney for the public body and the immediate staff of
22 the public body. No landowner, real estate salesperson, broker,
23 developer or any other person who may profit directly or indirectly
24 by a proposed transaction concerning real property which is under

1 consideration may be present or participate in the executive
2 session, unless they are operating under an existing agreement to
3 represent the public body.

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

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

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

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

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

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

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

21 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.28, as
22 last amended by Section 9, Chapter 163, O.S.L. 2019 (51 O.S. Supp.
23 2019, Section 24A.28), is amended to read as follows:
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1 Section 24A.28. A. The following information may be kept
2 confidential:

3 1. Investigative evidence of a plan or scheme to commit an act
4 of terrorism;

5 2. Assessments of the vulnerability of government facilities or
6 public improvements to an act of terrorism and work papers directly
7 related to preparing the assessment of vulnerability;

8 3. Records including details for deterrence or prevention of or
9 protection from an act or threat of an act of terrorism;

10 4. Records including details for response or remediation after
11 an act of terrorism;

12 5. Information technology of a public body or public official
13 but only if the information specifically identifies:

14 a. design or functional schematics that demonstrate the
15 relationship or connections between devices or
16 systems,

17 b. system configuration information,

18 c. security monitoring and response equipment placement
19 and configuration,

20 d. specific location or placement of systems, components
21 or devices,

22 e. system identification numbers, names, or connecting
23 circuits,
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1 f. business continuity and disaster planning, or response
2 plans, or

3 g. investigative information directly related to security
4 penetrations or denial of services;

5 6. Investigation evidence of an act of terrorism that has
6 already been committed;

7 7. Records received, maintained or generated by the Oklahoma
8 Office of Homeland Security which include confidential private
9 business information or an individual's private records;

10 8. Records received by the Oklahoma Office of Homeland Security
11 from the United States Department of Homeland Security or records
12 maintained or generated by the Oklahoma Office of Homeland Security
13 involving the United States Department of Homeland Security;

14 9. Records received, maintained or generated by the Department
15 of Environmental Quality that contain information regarding sources
16 of radiation in quantities determined by the United States Nuclear
17 Regulatory Commission to be significant to public health and safety,
18 by whomever possessed, whether in transit or at fixed sites, when
19 the information could reasonably be expected to have an adverse
20 effect on the health and safety of the public by increasing the
21 likelihood of theft, diversion or sabotage of the radiation sources
22 or facilities. The information may include but is not limited to
23 information:
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- a. from or relating to radioactive material licensees identifying the exact location of the radioactive material,
- b. describing how the radioactive material is secured from unauthorized removal or access when it is in storage,
- c. describing the control and maintenance of constant surveillance of the radioactive material when it is not in storage,
- d. describing specific policies and procedures for actions to physically protect the radioactive material,
- e. identifying possession limits or actual inventories of radionuclides,
- f. containing or describing assessments or analyses that could reveal vulnerabilities,
- g. identifying specific locations of safety and security equipment,
- h. describing emergency planning, emergency response and fire protection, and
- i. containing or describing other information that could reasonably be expected to be useful to persons with malevolent intent;

1 10. The names of school district personnel who have been
2 designated to carry a firearm pursuant to Section 5-149.2 of Title
3 70 of the Oklahoma Statutes; ~~and~~

4 11. Information technology of the State Election Board or a
5 county election board which is determined jointly by the Secretary
6 of the State Election Board and the State Chief Information Officer
7 to be technology that could reasonably be expected to be useful to
8 persons with intent to interfere with the conduct of an election,
9 voter registration or other election processes; and

10 12. Records received, maintained or generated by the Oklahoma
11 Municipal Power Authority established pursuant to Section 24-101 et
12 seq. of Title 11 of the Oklahoma Statutes and in its role as an
13 electric utility regulated by the federal government, related to
14 security plans and procedures including, but not limited to,
15 cybersecurity matters.

16 B. The following information shall not be kept confidential:

17 1. Records related to federal grants administered by the
18 Oklahoma Office of Homeland Security or the Department of
19 Environmental Quality;

20 2. Records related to the receipt and expenditure of public
21 funds; or

22 3. Records related to the financial performance or financial
23 administration of the Oklahoma Office of Homeland Security or the
24 Department of Environmental Quality.

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

4 D. 1. Public educational institutions may keep confidential
5 campus security plans. An institution or agency may in its
6 discretion release information contained in or related to the campus
7 security plan in order to design or implement the plan.

8 2. Nothing in this subsection shall preclude an institution or
9 agency within The Oklahoma State System of Higher Education from
10 collecting and releasing information relating to campus crime
11 statistics and campus security policies as is required pursuant to
12 the Jeanne Clery Disclosure of Campus Security Policy and Campus
13 Crime Statistics Act, 20 U.S.C. 1092(f).

14 3. For purposes of this subsection, "campus security plan"
15 shall include, but is not limited to, prevention and response
16 procedures to and notification procedures for perceived or actual
17 security threats and incidents on or impacting the campus.

18 SECTION 3. This act shall become effective November 1, 2020.

19 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
20 February 20, 2020 - DO PASS AS AMENDED
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