

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3495

By: Lepak

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Open Meeting Act;  
8 amending 25 O.S. 2011, Section 304, as amended by  
9 Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp.  
10 2019, Section 304), which relates to definitions in  
11 the Oklahoma Open Meeting Act; modifying definition  
12 of public body to include the Judicial Nominating  
13 Commission; amending 25 O.S. 2011, Section 307, as  
14 last amended by Section 57, Chapter 476, O.S.L. 2019  
15 (25 O.S. Supp. 2019, Section 307), which relates to  
16 executive sessions; prohibiting the Judicial  
17 Nominating Commission from holding executive  
18 sessions; and providing an effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 304, as  
amended by Section 3, Chapter 81, O.S.L. 2019 (25 O.S. Supp. 2019,  
Section 304), is amended to read as follows:

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

1. "Public body" means the governing bodies of all  
municipalities located within this state, boards of county  
commissioners of the counties in this state, boards of public and  
higher education in this state and all boards, bureaus, commissions,

1 agencies, trusteeships, authorities, councils, committees, public  
2 trusts or any entity created by a public trust, including any  
3 committee or subcommittee composed of any of the members of a public  
4 trust or other legal entity receiving funds from the Rural Economic  
5 Action Plan Fund as authorized by Section 2007 of Title 62 of the  
6 Oklahoma Statutes, task forces or study groups in this state  
7 supported in whole or in part by public funds or entrusted with the  
8 expending of public funds, or administering public property, and  
9 shall include all committees or subcommittees of any public body and  
10 the Judicial Nominating Commission when conducting interviews of  
11 judicial candidates, discussing or deliberating the merits of the  
12 individual candidates or any matter relating to the individual  
13 candidates, and making a determination of which candidates to  
14 recommend to the Governor; provided, any documents reviewed during  
15 the public meeting shall have personal information, including Social  
16 Security numbers, home addresses and telephone numbers redacted.  
17 Public body shall not include the state judiciary, the Council on  
18 Judicial Complaints when conducting, discussing, or deliberating any  
19 matter relating to a complaint received or filed with the Council,  
20 the Legislature, or administrative staffs of public bodies,  
21 including, but not limited to, faculty meetings and athletic staff  
22 meetings of institutions of higher education when those staffs are  
23 not meeting with the public body, or entry-year assistance  
24 committees. Furthermore, public body shall not include the

1 multidisciplinary teams provided for in Section 1-9-102 of Title 10A  
2 of the Oklahoma Statutes and subsection C of Section 1-502.2 of  
3 Title 63 of the Oklahoma Statutes or any school board meeting for  
4 the sole purpose of considering recommendations of a  
5 multidisciplinary team and deciding the placement of any child who  
6 is the subject of the recommendations. Furthermore, public body  
7 shall not include meetings conducted by stewards designated by the  
8 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title  
9 3A of the Oklahoma Statutes when the stewards are officiating at  
10 races or otherwise enforcing rules of the Commission;

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

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

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

21 5. "Emergency meeting" means any meeting called for the purpose  
22 of dealing with an emergency. For purposes of the Oklahoma Open  
23 Meeting Act, an emergency is defined as a situation involving injury  
24 to persons or injury and damage to public or personal property or

1 immediate financial loss when the time requirements for public  
2 notice of a special meeting would make such procedure impractical  
3 and increase the likelihood of injury or damage or immediate  
4 financial loss;

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

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

20 SECTION 2. AMENDATORY 25 O.S. 2011, Section 307, as last  
21 amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2019,  
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.

1 B. Executive sessions of public bodies will be permitted only  
2 for the purpose of:

3 1. Discussing the employment, hiring, appointment, promotion,  
4 demotion, disciplining or resignation of any individual salaried  
5 public officer or employee; provided, the provisions of this  
6 paragraph shall not apply to discussions concerning the nominating  
7 of judicial candidates by the Judicial Nominating Commission;

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

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

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

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

21 6. Discussing matters involving a specific handicapped child;

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

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

4 9. Discussing matters involving safety and security at state  
5 penal institutions or correctional facilities used to house state  
6 inmates;

7 10. Discussing contract negotiations involving contracts  
8 requiring approval of the Board of Corrections, which shall be  
9 limited to members of the public body, the attorney for the public  
10 body, and the immediate staff of the public body. No person who may  
11 profit directly or indirectly by a proposed transaction which is  
12 under consideration may be present or participate in the executive  
13 session; or

14 11. Discussing the following:

- 15 a. the investigation of a plan or scheme to commit an act  
16 of terrorism,
- 17 b. assessments of the vulnerability of government  
18 facilities or public improvements to an act of  
19 terrorism,
- 20 c. plans for deterrence or prevention of or protection  
21 from an act of terrorism,
- 22 d. plans for response or remediation after an act of  
23 terrorism,

1 e. information technology of the public body but only if  
2 the discussion specifically identifies:

3 (1) design or functional schematics that demonstrate  
4 the relationship or connections between devices  
5 or systems,

6 (2) system configuration information,

7 (3) security monitoring and response equipment  
8 placement and configuration,

9 (4) specific location or placement of systems,  
10 components or devices,

11 (5) system identification numbers, names, or  
12 connecting circuits,

13 (6) business continuity and disaster planning, or  
14 response plans, or

15 (7) investigation information directly related to  
16 security penetrations or denial of services, or

17 f. the investigation of an act of terrorism that has  
18 already been committed.

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

22 C. Notwithstanding the provisions of subsection B of this  
23 section, the following public bodies may hold executive sessions:  
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- 1        1. The State Banking Board, as provided for under Section 306.1  
2 of Title 6 of the Oklahoma Statutes;
- 3        2. The Oklahoma Industrial Finance Authority, as provided for  
4 in Section 854 of Title 74 of the Oklahoma Statutes;
- 5        3. The Oklahoma Development Finance Authority, as provided for  
6 in Section 5062.6 of Title 74 of the Oklahoma Statutes;
- 7        4. The Oklahoma Center for the Advancement of Science and  
8 Technology, as provided for in Section 5060.7 of Title 74 of the  
9 Oklahoma Statutes;
- 10       5. The Oklahoma Health Research Committee for purposes of  
11 conferring on matters pertaining to research and development of  
12 products, if public disclosure of the matter discussed would  
13 interfere with the development of patents, copyrights, products, or  
14 services;
- 15       6. The Workers' Compensation Commission for the purposes  
16 provided for in Section 20 of Title 85A of the Oklahoma Statutes;
- 17       7. A review committee, as provided for in Section 855 of Title  
18 62 of the Oklahoma Statutes;
- 19       8. The Child Death Review Board for purposes of receiving and  
20 conferring on matters pertaining to materials declared confidential  
21 by law;
- 22       9. The Domestic Violence Fatality Review Board as provided in  
23 Section 1601 of Title 22 of the Oklahoma Statutes;

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

3        11. 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        12. 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        13. The Quality Investment Committee for purposes of discussing  
21 applications and confidential materials pursuant to the terms of the  
22 Oklahoma Quality Investment Act.

23        D. Except as otherwise specified in this subsection, an  
24 executive session for the purpose of discussing the purchase or

1 appraisal of real property shall be limited to members of the public  
2 body, the attorney for the public body and the immediate staff of  
3 the public body. No landowner, real estate salesperson, broker,  
4 developer or any other person who may profit directly or indirectly  
5 by a proposed transaction concerning real property which is under  
6 consideration may be present or participate in the executive  
7 session, unless they are operating under an existing agreement to  
8 represent the public body.

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

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

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

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

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

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

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

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