

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1298

By: Rader

AS INTRODUCED

An Act relating to the Oklahoma Open Meeting Act; amending 25 O.S. 2021, Sections 307 and 307.1, which relate to executive sessions and videoconference exceptions; authorizing the Oklahoma Tax Commission to hold executive session for certain purposes; updating statutory language; providing exceptions; authorizing taxpayers to attend executive session with the Commission via videoconference; and providing an effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2021, 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;

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

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

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

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

12 6. Discussing matters involving a specific handicapped child;

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

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

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

21 10. Discussing contract negotiations involving contracts
22 requiring approval of the State Board of Corrections, which shall be
23 limited to members of the public body, the attorney for the public
24 body, and the immediate staff of the public body. No person who may
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1 profit directly or indirectly by a proposed transaction which is
2 under consideration may be present or participate in the executive
3 session; or

4 11. Discussing the following:

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

1 products, if public disclosure of the matter discussed would
2 interfere with the development of patents, copyrights, products, or
3 services;

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

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

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

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

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

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

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

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

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

17 15. The Oklahoma Tax Commission for purposes of discussing
18 confidential taxpayer matters as provided in Section 205 of Title 68
19 of the Oklahoma Statutes, and in compliance with subsection E of
20 this section.

21 D. Except as otherwise specified in this subsection, an
22 executive session for the purpose of discussing the purchase or
23 appraisal of real property shall be limited to members of the public
24 body, the attorney for the public body and the immediate staff of
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1 the public body. No landowner, real estate salesperson, broker,
2 developer or any other person who may profit directly or indirectly
3 by a proposed transaction concerning real property which is under
4 consideration may be present or participate in the executive
5 session, unless they are operating under an existing agreement to
6 represent the public body.

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

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

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

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

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

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

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

SECTION 2. AMENDATORY 25 O.S. 2021, Section 307.1, is

amended to read as follows:

Section 307.1. A. Except as provided in subsections C and D of this section, a public body may hold meetings by videoconference where each member of the public body is visible and audible to each other and the public through a video monitor, subject to the following:

1. a. except as provided for in subparagraph b of this paragraph, no less than a quorum of the public body shall be present in person at the meeting site as posted on the meeting notice and agenda,
- b. a virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of Section 3-145.3 of Title 70 of the Oklahoma Statutes shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, videoconference sites or any combination of such sites to achieve a quorum~~+~~L and
- c. each public meeting held by videoconference or teleconference shall be recorded either by written, electronic, or other means;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate if the meeting will include videoconferencing locations and shall state:

- a. the location, address, and telephone number of each available videoconference site, and
- b. the identity of each member of the public body and the specific site from which each member of the body shall be physically present and participating in the meeting;

3. After the meeting notice and agenda are prepared and posted, as required by law, no member of the public body shall be allowed to participate in the meeting from any location other than the specific location posted on the agenda in advance of the meeting;

4. In order to allow the public the maximum opportunity to attend and observe each public official carrying out the duties of the public official, a member or members of a public body desiring to participate in a meeting by videoconference shall participate in the videoconference from a site and room located within the district or political subdivision from which they are elected, appointed, or are sworn to represent;

5. Each site and room where a member of the public body is present for a meeting by videoconference shall be open and accessible to the public, and the public shall be allowed into that site and room. Public bodies may provide additional videoconference sites as a convenience to the public, but additional sites shall not be used to exclude or discourage public attendance at any videoconference site;

1 6. The public shall be allowed to participate and speak, as
2 allowed by rule or policy set by the public body, in a meeting at
3 the videoconference site in the same manner and to the same extent
4 as the public is allowed to participate or speak at the site of the
5 meeting;

6 7. Any materials shared electronically between members of the
7 public body, before or during the videoconference, shall also be
8 immediately available to the public in the same form and manner as
9 shared with members of the public body; and

10 8. All votes occurring during any meeting conducted using
11 videoconferencing shall occur and be recorded by roll call vote.

12 B. ~~No~~ Except as provided for in subsection E of this section,
13 no public body shall conduct an executive session by
14 videoconference.

15 C. Upon the effective date of this act and until February 15,
16 2022, or until thirty (30) days after the expiration or termination
17 of the state of emergency declared by the Governor to respond to the
18 threat of COVID-19 to the people of this state and the public's
19 peace, health and safety, whichever date first occurs, the
20 provisions of this subsection and subsection D shall operate as law
21 in this state.

22 1. A public body may hold meetings by teleconference or
23 videoconference if each member of the public body is audible or
24 visible to each other and the public, subject to the following:

- a. for a virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of the Oklahoma Statutes, the public body shall maintain a quorum of members for the entire duration of the meeting whether using an in-person site, teleconference, or videoconference or any combination of such sites to achieve a quorum, and
- b. if the meeting is held using either teleconference or videoconference capabilities, and at any time the audio connection is disconnected, the meeting shall be stopped and reconvened once the audio connection is restored;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate if the meeting will include teleconferencing or videoconferencing and shall also state:

- a. each public body member appearing remotely and the method of each member's remote appearance, and
- b. the identity of the public body member or members who will be physically present at the meeting site, if any;

3. After the meeting notice and agenda are prepared and posted as required by law, public body members shall not be permitted to alter their method of attendance; provided, however, those members

1 who were identified as appearing remotely may be permitted to
2 physically appear at the meeting site, if any, for the meeting;

3 4. The public body shall be allowed to participate and speak,
4 as allowed by rule or policy set by the public body, in a meeting
5 which utilizes teleconference or videoconference in the same manner
6 and to the same extent as the public is allowed to participate or
7 speak during a meeting where all public body members are physically
8 present together at the meeting site;

9 5. Any documents or other materials provided to members of the
10 public body or shared electronically between members of the public
11 body during a meeting utilizing teleconferencing or
12 videoconferencing shall also be immediately available to the public
13 on the website of the public body, if the public body maintains a
14 website; and

15 6. All votes occurring during any meeting utilizing
16 teleconference or videoconference shall occur and be recorded by
17 roll call votes.

18 D. Public bodies are permitted to conduct an executive session
19 by teleconference or videoconference. For such executive sessions,
20 no public body member is required to be physically present so long
21 as each public body member is audible or visible to each other. The
22 meeting notice and agenda prepared in advance of the meeting as
23 required by law shall indicate if the executive session will include
24 teleconferencing or videoconferencing and shall also state the

1 identity of each public body member appearing remotely, the method
2 of each member's remote appearance, and whether any member will be
3 physically present at the meeting site, if any, for the executive
4 session.

5 E. The Oklahoma Tax Commission may conduct executive sessions
6 with the taxpayer at issue attending using videoconference
7 technology to discuss confidential taxpayer matters as provided for
8 in Section 205 of Title 68 of the Oklahoma Statutes. During
9 executive sessions, the Commission is required to be physically
10 present while taxpayers may appear using videoconference technology.
11 The technology selected and utilized by the Commission shall ensure
12 taxpayer confidentiality including compliance with safeguards as
13 provided for in Internal Revenue Service Publication 1075.

14 SECTION 3. This act shall become effective November 1, 2022.

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