

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 167, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LABOR; AMENDING SECTION 67-2345, IDAHO CODE, TO REMOVE PROVI-
2 SIONS RELATING TO LABOR NEGOTIATIONS CONDUCTED IN EXECUTIVE SESSION AND
3 TO PROVIDE THAT CONSIDERATION OF CERTAIN LABOR CONTRACT OFFERS MAY BE
4 HELD IN EXECUTIVE SESSION; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE,
5 BY THE ADDITION OF A NEW SECTION 67-2345A, IDAHO CODE, TO ESTABLISH
6 PROVISIONS RELATING TO NEGOTIATIONS IN OPEN SESSION, TO PROVIDE THAT AN
7 EXECUTIVE SESSION MAY BE HELD FOR CERTAIN SPECIFIC PURPOSES, TO PROVIDE
8 THAT CERTAIN DOCUMENTS EXCHANGED BETWEEN PARTIES SHALL BE SUBJECT TO
9 PUBLIC WRITINGS DISCLOSURE LAWS, TO PROVIDE FOR NOTICE AND TO PROVIDE
10 THAT PUBLIC TESTIMONY SHALL BE POSTED AS AN AGENDA ITEM; REPEALING SEC-
11 TION 33-1273A, IDAHO CODE, RELATING TO NEGOTIATIONS IN OPEN SESSION;
12 AND PROVIDING A SUNSET DATE.
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Section 67-2345, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 67-2345. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) An executive ses-
18 sion at which members of the public are excluded may be held, but only for the
19 purposes and only in the manner set forth in this section. The motion to go
20 into executive session shall identify the specific subsections of this sec-
21 tion that authorize the executive session. There shall be a roll call vote on
22 the motion and the vote shall be recorded in the minutes. An executive ses-
23 sion shall be authorized by a two-thirds (2/3) vote of the governing body. An
24 executive session may be held:

25 (a) To consider hiring a public officer, employee, staff member or in-
26 dividual agent, wherein the respective qualities of individuals are to
27 be evaluated in order to fill a particular vacancy or need. This para-
28 graph does not apply to filling a vacancy in an elective office or deliber-
29 ations about staffing needs in general;

30 (b) To consider the evaluation, dismissal or disciplining of, or to
31 hear complaints or charges brought against, a public officer, employee,
32 staff member or individual agent, or public school student;

33 (c) To ~~conduct deliberations concerning labor negotiations or to ac-~~
34 ~~quire an interest in real property which is not owned by a public agency;~~

35 (d) To consider records that are exempt from disclosure as provided in
36 chapter 3, title 9, Idaho Code;

37 (e) To consider preliminary negotiations involving matters of trade or
38 commerce in which the governing body is in competition with governing
39 bodies in other states or nations;

40 (f) To communicate with legal counsel for the public agency to discuss
41 the legal ramifications of and legal options for pending litigation, or
42 controversies not yet being litigated but imminently likely to be liti-

1 gated. The mere presence of legal counsel at an executive session does
2 not satisfy this requirement;

3 (g) By the commission of pardons and parole, as provided by law;

4 (h) By the custody review board of the Idaho department of juvenile cor-
5 rections, as provided by law; ~~or~~

6 (i) To engage in communications with a representative of the public
7 agency's risk manager or insurance provider to discuss the adjustment
8 of a pending claim or prevention of a claim imminently likely to be
9 filed. The mere presence of a representative of the public agency's
10 risk manager or insurance provider at an executive session does not sat-
11 isfy this requirement; or

12 (j) To consider labor contract matters authorized under section
13 67-2345A(1) (a) and (b), Idaho Code.

14 ~~(2) Labor negotiations may be conducted in executive session if either~~
15 ~~side requests closed meetings. Notwithstanding the provisions of section~~
16 ~~67-2343, Idaho Code, subsequent sessions of the negotiations may continue~~
17 ~~without further public notice.~~

18 ~~(3) The exceptions to the general policy in favor of open meetings~~
19 ~~stated in this section shall be narrowly construed. It shall be a violation~~
20 ~~of this act to change the subject within the executive session to one not~~
21 ~~identified within the motion to enter the executive session or to any topic~~
22 ~~for which an executive session is not provided.~~

23 ~~(4) No executive session may be held for the purpose of taking any fi-~~
24 ~~nal action or making any final decision.~~

25 SECTION 2. That Chapter 23, Title 67, Idaho Code, be, and the same is
26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
27 ignated as Section 67-2345A, Idaho Code, and to read as follows:

28 67-2345A. NEGOTIATIONS IN OPEN SESSION. (1) All negotiations between
29 a governing body and a labor organization shall be in open session and shall
30 be available for the public to attend. This requirement also applies to ne-
31 gotiations between the governing body's designated representatives and rep-
32 resentatives of the labor organization. This requirement shall also apply
33 to meetings with any labor negotiation arbitrators, mediators or similar la-
34 bor dispute meeting facilitators. Provided, however, a governing body or
35 its designated representatives may hold an executive session for the spe-
36 cific purpose of:

37 (a) Considering a labor contract offer or to formulate a counteroffer;
38 or

39 (b) Receiving information about a specific employee, when the informa-
40 tion has a direct bearing on the issues being negotiated and a reason-
41 able person would conclude that the release of that information would
42 violate that employee's right to privacy.

43 (2) All documentation exchanged between the parties during negoti-
44 ations, including all offers, counteroffers and meeting minutes shall be
45 subject to public writings disclosure laws.

46 (3) Any other provision of law notwithstanding, including any other
47 provisions to the contrary in sections 33-402 and 67-2343, Idaho Code, the
48 governing body shall post notice of all negotiation sessions at the earli-
49 est possible time practicable. This shall be done by the governing body by

1 immediately posting notice of the negotiation session on the front page of
2 its official website. If time permits, the governing body shall also post
3 notice within twenty-four (24) hours at its regular meeting physical posting
4 locations.

5 (4) Public testimony, if any, shall be posted as an agenda item.

6 SECTION 3. That Section [33-1273A](#), Idaho Code, be, and the same is hereby
7 repealed.

8 SECTION 4. The provisions of this act shall be null, void and of no force
9 and effect on and after July 1, 2020.