

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1055

By: Perryman

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5
6 AS INTRODUCED

7 An Act relating to definitions and general
8 provisions; amending 25 O.S. 2011, Sections 307 and
9 312, which relate to the Oklahoma Open Meeting Act;
10 permitting matters authorizing an attorney to extend
11 offer of settlement to be voted on in executive
12 session; requiring final settlement to be approved in
13 public meeting; requiring written or electronic
14 recording of executive session; requiring
15 preservation of certified minutes or recording;
16 permitting certain acts of court; providing certain
17 penalty; providing for codification; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, is
21 amended to read as follows:

22 Section 307. A. No public body shall hold executive sessions
23 unless otherwise specifically provided in this section.

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

1. Discussing the continued employment, compensation, 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; or

20 9. Discussing the following:

21 a. the investigation of a plan or scheme to commit an act
22 of terrorism,

- 1 b. assessments of the vulnerability of government
2 facilities or public improvements to an act of
3 terrorism,
4 c. plans for deterrence or prevention of or protection
5 from an act of terrorism,
6 d. plans for response or remediation after an act of
7 terrorism,
8 e. information technology of the public body but only if
9 the discussion specifically identifies:
10 (1) design or functional schematics that demonstrate
11 the relationship or connections between devices
12 or systems,
13 (2) system configuration information,
14 (3) security monitoring and response equipment
15 placement and configuration,
16 (4) specific location or placement of systems,
17 components or devices,
18 (5) system identification numbers, names, or
19 connecting circuits,
20 (6) business continuity and disaster planning, or
21 response plans, or
22 (7) investigation information directly related to
23 security penetrations or denial of services, or
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1 f. the investigation of an act of terrorism that has
2 already been committed.

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

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

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

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

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

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

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

19 6. The Oklahoma Health Research Committee for purposes of
20 conferring on matters pertaining to research and development of
21 products, if public disclosure of the matter discussed would
22 interfere with the development of patents, copyrights, products, or
23 services;

1 7. A review committee, as provided for in Section 855 of Title
2 62 of the Oklahoma Statutes;

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

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

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

19 11. The Oklahoma Indigent Defense System Board for purposes of
20 discussing negotiating strategies in connection with making possible
21 counteroffers to offers to contract to provide legal representation
22 to indigent criminal defendants and indigent juveniles in cases for
23 which the System must provide representation pursuant to the
24 provisions of the Indigent Defense System Act; and

1 12. The Quality Investment Committee for purposes of discussing
2 applications and confidential materials pursuant to the terms of the
3 Oklahoma Quality Investment Act.

4 D. An executive session for the purpose of discussing the
5 purchase or appraisal of real property shall be limited to members
6 of the public body, the attorney for the public body, and the
7 immediate staff of the public body. No landowner, real estate
8 salesperson, broker, developer, or any other person who may profit
9 directly or indirectly by a proposed transaction concerning real
10 property which is under consideration may be present or participate
11 in the executive session.

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

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

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

18 3. Except for:

19 a. matters considered in executive sessions of the State
20 Banking Board and the Oklahoma Savings and Loan Board,
21 and which are required by state or federal law to be
22 confidential, ~~any~~ or

23 b. matters authorizing an attorney of a public body to
24 extend an offer of settlement of a pending claim or

1 pending litigation. Any vote or action on any item of
2 business considered in an executive session shall be
3 taken in public meeting with the vote of each member
4 publicly cast and recorded. Provided, however, that
5 the terms and conditions of any final settlement of a
6 claim or litigation shall be approved in a public
7 meeting with the vote of each member publicly cast and
8 recorded.

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

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

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

14 SECTION 2. AMENDATORY 25 O.S. 2011, Section 312, is
15 amended to read as follows:

16 Section 312. A. The public proceedings of a public body shall
17 be kept by a person so designated by such public body in the form of
18 written minutes which shall be an official summary of the
19 proceedings showing clearly those members present and absent, all
20 matters considered by the public body, and all actions taken by such
21 public body. The minutes of each meeting shall be open to public
22 inspection and shall reflect the manner and time of notice required
23 by this act.

1 B. In the written minutes of an emergency meeting, the nature
2 of the emergency and the proceedings occurring at such meeting,
3 including reasons for declaring such emergency meeting, shall be
4 included.

5 C. Any person attending a public meeting may record the
6 proceedings of said meeting by videotape, audiotape or by any other
7 method; providing, however, such recording shall not interfere with
8 the conduct of the meeting.

9 D. When a public body meets in executive session, the public
10 body shall designate a person who is otherwise authorized to be
11 present in the executive session to record in writing or
12 electronically such proceedings.

13 1. If an electronic recording is made, announcements shall be
14 made by the presiding officer at the beginning and the end of the
15 executive session indicating the date and identifying the persons
16 present.

17 2. If the minutes are recorded in written form, they shall
18 contain the identity of the persons present, a record of the subject
19 matter of the deliberations and a record of any action taken.

20 3. It shall be the duty of the presiding officer of the public
21 body to preserve such written minutes or electronic recording in a
22 sealed envelope with information on the exterior of the envelope
23 certifying the contents as true and correct and showing the date and
24 time of the executive session.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 312A of Title 25, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A public body shall preserve the certified minutes or
5 recording of an executive session for at least two (2) years after
6 the date of the meeting. If an action involving the meeting is
7 brought within that period, the public body shall preserve the
8 certified minutes or recording while the action is pending.

9 B. In litigation in a district court involving an alleged
10 violation of the Oklahoma Open Meeting Act, the court:

11 1. Is entitled to make an in-camera inspection of the certified
12 minutes or recording;

13 2. May admit all or part of the certified minutes or recording
14 as evidence, on entry of a final judgment; and

15 3. May grant legal or equitable relief it considers
16 appropriate, including an order that the public body make available
17 to the public the certified minutes or recording of any part of a
18 meeting that was required to be open under the Oklahoma Open Meeting
19 Act.

20 C. The certified minutes or recording of an executive session
21 is available for public inspection and copying only under a court
22 order issued under paragraph 3 of subsection B of this section.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 312B of Title 25, unless there
3 is created a duplication in numbering, reads as follows:

4 An individual who, without lawful authority, knowingly discloses
5 to a member of the public the contents of an executive session, the
6 certified minutes or a recording of an executive session that was
7 lawfully closed to the public shall be subject to the penalties set
8 forth in Section 314 of Title 25 of the Oklahoma Statutes.

9 SECTION 5. This act shall become effective November 1, 2015.

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