

1 **SENATE FLOOR VERSION**

2 April 10, 2017

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1810

By: Loring of the House

and

Quinn of the Senate

7
8 **[definitions and general provisions - Open Meeting
9 Act - audio or video records of proceedings in
10 certain circumstances - certain acts in executive
11 session - effective date]**

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

13 SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as
14 amended by Section 1, Chapter 109, O.S.L. 2015 (25 O.S. Supp. 2016,
15 Section 307), is amended to read as follows:

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

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

20 1. Discussing the employment, hiring, appointment, promotion,
21 demotion, disciplining or resignation of any individual salaried
22 public officer or employee;

23 2. Discussing negotiations concerning employees and
24 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; or

18 9. Discussing the following:

19 a. the investigation of a plan or scheme to commit an act
20 of terrorism,

21 b. assessments of the vulnerability of government
22 facilities or public improvements to an act of
23 terrorism,

24

- 1 c. plans for deterrence or prevention of or protection
2 from an act of terrorism,
- 3 d. plans for response or remediation after an act of
4 terrorism,
- 5 e. information technology of the public body but only if
6 the discussion specifically identifies:
- 7 (1) design or functional schematics that demonstrate
8 the relationship or connections between devices
9 or systems,
- 10 (2) system configuration information,
- 11 (3) security monitoring and response equipment
12 placement and configuration,
- 13 (4) specific location or placement of systems,
14 components or devices,
- 15 (5) system identification numbers, names, or
16 connecting circuits,
- 17 (6) business continuity and disaster planning, or
18 response plans, or
- 19 (7) investigation information directly related to
20 security penetrations or denial of services, or
- 21 f. the investigation of an act of terrorism that has
22 already been committed.
- 23
24

1 For the purposes of this subsection, 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 C. Notwithstanding the provisions of subsection B of this
5 section, the following public bodies may hold executive sessions:

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

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

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

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

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

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

22 ~~7.~~ 6. A review committee, as provided for in Section 855 of
23 Title 62 of the Oklahoma Statutes;

24

1 ~~8.~~ 7. The Child Death Review Board for purposes of receiving
2 and conferring on matters pertaining to materials declared
3 confidential by law;

4 ~~9.~~ 8. The Domestic Violence Fatality Review Board as provided
5 in Section 1601 of Title 22 of the Oklahoma Statutes;

6 ~~10.~~ 9. All nonprofit foundations, boards, bureaus, commissions,
7 agencies, trusteeships, authorities, councils, committees, public
8 trusts, task forces or study groups supported in whole or part by
9 public funds or entrusted with the expenditure of public funds for
10 purposes of conferring on matters pertaining to economic
11 development, including the transfer of property, financing, or the
12 creation of a proposal to entice a business to remain or to locate
13 within their jurisdiction if public disclosure of the matter
14 discussed would interfere with the development of products or
15 services or if public disclosure would violate the confidentiality
16 of the business;

17 ~~11.~~ 10. The Oklahoma Indigent Defense System Board for purposes
18 of discussing negotiating strategies in connection with making
19 possible counteroffers to offers to contract to provide legal
20 representation to indigent criminal defendants and indigent
21 juveniles in cases for which the System must provide representation
22 pursuant to the provisions of the Indigent Defense System Act; and
23
24

1 ~~12.~~ 11. The Quality Investment Committee for purposes of
2 discussing applications and confidential materials pursuant to the
3 terms of the Oklahoma Quality Investment Act.

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

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

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

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

20 3. Except for matters considered in executive sessions of the
21 State Banking Board and the ~~Oklahoma Savings and Loan Board~~, and
22 which are required by state or federal law to be confidential, any
23 vote or action on any item of business considered in an executive
24

1 session shall be taken in public meeting with the vote of each
2 member publicly cast and recorded.

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

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

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

8 A public body may elect to record by audio or video the proceedings
9 of an executive session to confidentially preserve the same as is
10 required for the minutes of the executive session, separate from the
11 minutes of the open portions of the meeting, unless it is determined
12 that there is a willful violation of the provisions of this section.

13 If the public body elects to record the proceedings, no other
14 individual legally in the meeting may record those proceedings. If
15 the public body elects not to record the proceedings, then any
16 individual legally in the executive session, or any portion thereof,
17 upon notice to the public body, may record by audio or video the
18 proceedings of the executive session or that portion thereof in
19 which that individual is legally in attendance. Such individual
20 must keep the recording confidential, unless it is determined by a
21 court with appropriate jurisdiction that there is a willful
22 violation of the provisions of this section.

23 G. The following actions shall constitute a violation of the
24 Oklahoma Open Meeting Act and subject the violating individual to

1 the criminal sanctions as provided in Section 314 of this title as
2 well as civil liability to the public body for the damages caused by
3 the violation:

4 1. Except as provided in subsection F for a legally permissible
5 recording, making a recording or broadcasting the executive session
6 from inside the room of the session by an individual otherwise
7 legally in the executive session;

8 2. Making any recording by an individual not legally in the
9 executive session, or listening to or broadcasting the executive
10 session, or any part thereof, by any electronic means with any
11 device in the meeting room which is not under the control of the
12 public body and without authorization from the public body; or

13 3. Any individual who is legally in the executive session
14 disseminating detailed information learned or discussed during the
15 session to any individual other than an individual who is a member
16 of the public body or such other individual who would normally
17 legally be in attendance of the executive session but was not
18 actually in attendance. Provided however, this provision shall not
19 prohibit an individual from disclosing the fact that he or she
20 reasonably believes the provisions of this section were violated by
21 members of the public body during the executive session to:

22 a. a law enforcement or prosecutorial agency with
23 jurisdiction to investigate such alleged violation, or
24

1 b. an individual with a direct interest in the subject
2 matter discussed during the executive session, or a
3 legal representative thereof.

4 Provided further, if detailed information is discussed in an open
5 session of a public meeting after it has been discussed in an
6 executive session, any individual may discuss the detailed
7 information that was discussed in open session.

8 H. A willful violation of the provisions of this section by a
9 public body shall:

10 1. Subject the willfully participating members of the public
11 body to criminal sanctions as provided in Section 314 of this title;
12 and

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

15 SECTION 2. This act shall become effective November 1, 2017.

16 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
17 April 10, 2017 - DO PASS AS AMENDED