

1 **SENATE FLOOR VERSION**

2 February 19, 2021

3 SENATE BILL NO. 118

By: Hall of the Senate

4 and

5 Osburn of the House

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7
8 An Act relating to the Oklahoma Municipal Power
9 Authority; amending 25 O.S. 2011, Section 307, as
10 last amended by Section 57, Chapter 476, O.S.L. 2019
11 (25 O.S. Supp. 2020, Section 307), which relates to
12 the Open Meeting Act; authorizing Authority to hold
13 executive sessions for specified purposes; amending
14 51 O.S. 2011, Section 24A.28, as last amended by
15 Section 9, Chapter 163, O.S.L. 2019 (51 O.S. Supp.
16 2020, Section 24A.28), which relates to the Oklahoma
17 Open Records Act; authorizing Authority to keep
18 certain records confidential; and providing an
19 effective date.

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

21 SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as last
22 amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2020,
23 Section 307), is amended to read as follows:

24 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 1. Discussing the employment, hiring, appointment, promotion,
2 demotion, disciplining or resignation of any individual salaried
3 public officer or employee;
- 4 2. Discussing negotiations concerning employees and
5 representatives of employee groups;
- 6 3. Discussing the purchase or appraisal of real property;
- 7 4. Confidential communications between a public body and its
8 attorney concerning a pending investigation, claim, or action if the
9 public body, with the advice of its attorney, determines that
10 disclosure will seriously impair the ability of the public body to
11 process the claim or conduct a pending investigation, litigation, or
12 proceeding in the public interest;
- 13 5. Permitting district boards of education to hear evidence and
14 discuss the expulsion or suspension of a student when requested by
15 the student involved or the student's parent, attorney or legal
16 guardian;
- 17 6. Discussing matters involving a specific handicapped child;
- 18 7. Discussing any matter where disclosure of information would
19 violate confidentiality requirements of state or federal law;
- 20 8. Engaging in deliberations or rendering a final or
21 intermediate decision in an individual proceeding pursuant to
22 Article II of the Administrative Procedures Act;

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1 9. Discussing matters involving safety and security at state
2 penal institutions or correctional facilities used to house state
3 inmates;

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

11 11. Discussing the following:

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

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

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

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

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

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

5 4. The Oklahoma Center for the Advancement of Science and
6 Technology, as provided for in Section 5060.7 of Title 74 of the
7 Oklahoma Statutes;

8 5. The Oklahoma Health Research Committee for purposes of
9 conferring on matters pertaining to research and development of
10 products, if public disclosure of the matter discussed would
11 interfere with the development of patents, copyrights, products, or
12 services;

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

15 7. A review committee, as provided for in Section 855 of Title
16 62 of the Oklahoma Statutes;

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

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

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

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

12 12. The Oklahoma Indigent Defense System Board for purposes of
13 discussing negotiating strategies in connection with making possible
14 counteroffers to offers to contract to provide legal representation
15 to indigent criminal defendants and indigent juveniles in cases for
16 which the System must provide representation pursuant to the
17 provisions of the Indigent Defense System Act; ~~and~~

18 13. The Quality Investment Committee for purposes of discussing
19 applications and confidential materials pursuant to the terms of the
20 Oklahoma Quality Investment Act; and

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

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

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

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

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

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

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

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

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

6 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.28, as
7 last amended by Section 9, Chapter 163, O.S.L. 2019 (51 O.S. Supp.
8 2020, Section 24A.28), is amended to read as follows:

9 Section 24A.28. A. The following information may be kept
10 confidential:

11 1. Investigative evidence of a plan or scheme to commit an act
12 of terrorism;

13 2. Assessments of the vulnerability of government facilities or
14 public improvements to an act of terrorism and work papers directly
15 related to preparing the assessment of vulnerability;

16 3. Records including details for deterrence or prevention of or
17 protection from an act or threat of an act of terrorism;

18 4. Records including details for response or remediation after
19 an act of terrorism;

20 5. Information technology of a public body or public official
21 but only if the information specifically identifies:

- 22 a. design or functional schematics that demonstrate the
23 relationship or connections between devices or
24 systems,

- b. system configuration information,
- c. security monitoring and response equipment placement and configuration,
- d. specific location or placement of systems, components or devices,
- e. system identification numbers, names, or connecting circuits,
- f. business continuity and disaster planning, or response plans, or
- g. investigative information directly related to security penetrations or denial of services;

6. Investigation evidence of an act of terrorism that has already been committed;

7. Records received, maintained or generated by the Oklahoma Office of Homeland Security which include confidential private business information or an individual's private records;

8. Records received by the Oklahoma Office of Homeland Security from the United States Department of Homeland Security or records maintained or generated by the Oklahoma Office of Homeland Security involving the United States Department of Homeland Security;

9. Records received, maintained or generated by the Department of Environmental Quality that contain information regarding sources of radiation in quantities determined by the United States Nuclear Regulatory Commission to be significant to public health and safety,

1 by whomever possessed, whether in transit or at fixed sites, when
2 the information could reasonably be expected to have an adverse
3 effect on the health and safety of the public by increasing the
4 likelihood of theft, diversion or sabotage of the radiation sources
5 or facilities. The information may include but is not limited to
6 information:

- 7 a. from or relating to radioactive material licensees
8 identifying the exact location of the radioactive
9 material,
- 10 b. describing how the radioactive material is secured
11 from unauthorized removal or access when it is in
12 storage,
- 13 c. describing the control and maintenance of constant
14 surveillance of the radioactive material when it is
15 not in storage,
- 16 d. describing specific policies and procedures for
17 actions to physically protect the radioactive
18 material,
- 19 e. identifying possession limits or actual inventories of
20 radionuclides,
- 21 f. containing or describing assessments or analyses that
22 could reveal vulnerabilities,
- 23 g. identifying specific locations of safety and security
24 equipment,

1 h. describing emergency planning, emergency response and
2 fire protection, and

3 i. containing or describing other information that could
4 reasonably be expected to be useful to persons with
5 malevolent intent;

6 10. The names of school district personnel who have been
7 designated to carry a firearm pursuant to Section 5-149.2 of Title
8 70 of the Oklahoma Statutes; ~~and~~

9 11. Information technology of the State Election Board or a
10 county election board which is determined jointly by the Secretary
11 of the State Election Board and the State Chief Information Officer
12 to be technology that could reasonably be expected to be useful to
13 persons with intent to interfere with the conduct of an election,
14 voter registration or other election processes; and

15 12. Records received, maintained or generated by the Oklahoma
16 Municipal Power Authority established pursuant to Section 24-101 et
17 seq. of Title 11 of the Oklahoma Statutes and in its role as an
18 electric utility regulated by the federal government, related to
19 security plans and procedures including, but not limited to,
20 cybersecurity matters.

21 B. The following information shall not be kept confidential:

22 1. Records related to federal grants administered by the
23 Oklahoma Office of Homeland Security or the Department of
24 Environmental Quality;

1 2. Records related to the receipt and expenditure of public
2 funds; or

3 3. Records related to the financial performance or financial
4 administration of the Oklahoma Office of Homeland Security or the
5 Department of Environmental Quality.

6 C. For the purposes of this section, the term "terrorism" means
7 any act encompassed by the definitions set forth in Section 1268.1
8 of Title 21 of the Oklahoma Statutes.

9 D. 1. Public educational institutions may keep confidential
10 campus security plans. An institution or agency may in its
11 discretion release information contained in or related to the campus
12 security plan in order to design or implement the plan.

13 2. Nothing in this subsection shall preclude an institution or
14 agency within The Oklahoma State System of Higher Education from
15 collecting and releasing information relating to campus crime
16 statistics and campus security policies as is required pursuant to
17 the Jeanne Clery Disclosure of Campus Security Policy and Campus
18 Crime Statistics Act, 20 U.S.C. 1092(f).

19 3. For purposes of this subsection, "campus security plan"
20 shall include, but is not limited to, prevention and response
21 procedures to and notification procedures for perceived or actual
22 security threats and incidents on or impacting the campus.

23 SECTION 3. This act shall become effective November 1, 2021.

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1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
February 19, 2021 - DO PASS

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