

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 946

 By: Daniels and Bullard of the
 Senate

6 and

7 O'Donnell of the House

8
9
10 An Act relating to the Oklahoma Open Meeting Act;
11 amending 25 O.S. 2011, Sections 304, as last amended
12 by Section 1, Chapter 3, O.S.L. 2020 and 307, as last
13 amended by Section 57, Chapter 476, O.S.L. 2019 and
14 310 (25 O.S. Supp. 2020, Sections 304 and 307), which
15 relate to definitions and executive sessions; adding
16 Judicial Nominating Commission to definition of
17 public body; establishing purposes for permissible
18 executive sessions; and declaring an emergency.

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

20 SECTION 1. AMENDATORY 25 O.S. 2011, Section 304, as last
21 amended by Section 1, Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020,
22 Section 304), is amended to read as follows:

23 Section 304. As used in the Oklahoma Open Meeting Act:

24 1. "Public body" means the governing bodies of all
municipalities located within this state, boards of county
commissioners of the counties in this state, boards of public and

1 higher education in this state and all boards, bureaus, commissions,
2 agencies, trusteeships, authorities, councils, committees, public
3 trusts or any entity created by a public trust, including any
4 committee or subcommittee composed of any of the members of a public
5 trust or other legal entity receiving funds from the Rural Economic
6 Action Plan Fund as authorized by Section 2007 of Title 62 of the
7 Oklahoma Statutes, task forces or study groups in this state
8 supported in whole or in part by public funds or entrusted with the
9 expending of public funds, or administering public property, and
10 shall include all committees or subcommittees of any public body.

11 Public body shall include the Judicial Nominating Commission.

12 Public body shall not include the state judiciary, the Council on
13 Judicial Complaints when conducting, discussing, or deliberating any
14 matter relating to a complaint received or filed with the Council,
15 the Legislature, or administrative staffs of public bodies,
16 including, but not limited to, faculty meetings and athletic staff
17 meetings of institutions of higher education when those staffs are
18 not meeting with the public body, or entry-year assistance
19 committees. Furthermore, public body shall not include the
20 multidisciplinary teams provided for in Section 1-9-102 of Title 10A
21 of the Oklahoma Statutes and subsection C of Section 1-502.2 of
22 Title 63 of the Oklahoma Statutes or any school board meeting for
23 the sole purpose of considering recommendations of a
24 multidisciplinary team and deciding the placement of any child who

1 is the subject of the recommendations. Furthermore, public body
2 shall not include meetings conducted by stewards designated by the
3 Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title
4 3A of the Oklahoma Statutes when the stewards are officiating at
5 races or otherwise enforcing rules of the Commission;

6 2. "Meeting" means the conduct of business of a public body by
7 a majority of its members being personally together or, as
8 authorized by Section 307.1 of this title, together pursuant to a
9 videoconference. Meeting shall not include informal gatherings of a
10 majority of the members of the public body when no business of the
11 public body is discussed;

12 3. "Regularly scheduled meeting" means a meeting at which the
13 regular business of the public body is conducted;

14 4. "Special meeting" means any meeting of a public body other
15 than a regularly scheduled meeting or emergency meeting;

16 5. "Emergency meeting" means any meeting called for the purpose
17 of dealing with an emergency. For purposes of the Oklahoma Open
18 Meeting Act, an emergency is defined as a situation involving injury
19 to persons or injury and damage to public or personal property or
20 immediate financial loss when the time requirements for public
21 notice of a special meeting would make such procedure impractical
22 and increase the likelihood of injury or damage or immediate
23 financial loss;

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1 6. "Continued or reconvened meeting" means a meeting which is
2 assembled for the purpose of finishing business appearing on an
3 agenda of a previous meeting. For the purposes of the Oklahoma Open
4 Meeting Act, only matters on the agenda of the previous meeting at
5 which the announcement of the continuance is made may be discussed
6 at a continued or reconvened meeting;

7 7. "Videoconference" means a conference among members of a
8 public body remote from one another who are linked by interactive
9 telecommunication devices or technology and/or technology permitting
10 both visual and auditory communication between and among members of
11 the public body and/or between and among members of the public body
12 and members of the public. During any videoconference, both the
13 visual and auditory communications functions shall attempt to be
14 utilized; and

15 8. "Teleconference" means a conference among members of a
16 public body remote from one another who are linked by
17 telecommunication devices and/or technology permitting auditory
18 communication between and among members of the public body and/or
19 between and among members of the public body and members of the
20 public.

21 SECTION 2. 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:

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

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

5 1. Discussing the employment, hiring, appointment, promotion,
6 demotion, disciplining or resignation of any individual salaried
7 public officer or employee;

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

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

11 4. Confidential communications between a public body and its
12 attorney concerning a pending investigation, claim, or action if the
13 public body, with the advice of its attorney, determines that
14 disclosure will seriously impair the ability of the public body to
15 process the claim or conduct a pending investigation, litigation, or
16 proceeding in the public interest;

17 5. Permitting district boards of education to hear evidence and
18 discuss the expulsion or suspension of a student when requested by
19 the student involved or the student's parent, attorney or legal
20 guardian;

21 6. Discussing matters involving a specific handicapped child;

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

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

4 9. Discussing matters involving safety and security at state
5 penal institutions or correctional facilities used to house state
6 inmates;

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

14 11. Discussing the following:

- 15 a. the investigation of a plan or scheme to commit an act
16 of terrorism,
- 17 b. assessments of the vulnerability of government
18 facilities or public improvements to an act of
19 terrorism,
- 20 c. plans for deterrence or prevention of or protection
21 from an act of terrorism,
- 22 d. plans for response or remediation after an act of
23 terrorism,

1 e. information technology of the public body but only if
2 the discussion specifically identifies:

3 (1) design or functional schematics that demonstrate
4 the relationship or connections between devices
5 or systems,

6 (2) system configuration information,

7 (3) security monitoring and response equipment
8 placement and configuration,

9 (4) specific location or placement of systems,
10 components or devices,

11 (5) system identification numbers, names, or
12 connecting circuits,

13 (6) business continuity and disaster planning, or
14 response plans, or

15 (7) investigation information directly related to
16 security penetrations or denial of services, or

17 f. the investigation of an act of terrorism that has
18 already been committed.

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

22 C. Notwithstanding the provisions of subsection B of this
23 section, the following public bodies may hold executive sessions:
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- 1 1. The State Banking Board, as provided for under Section 306.1
2 of Title 6 of the Oklahoma Statutes;
- 3 2. The Oklahoma Industrial Finance Authority, as provided for
4 in Section 854 of Title 74 of the Oklahoma Statutes;
- 5 3. The Oklahoma Development Finance Authority, as provided for
6 in Section 5062.6 of Title 74 of the Oklahoma Statutes;
- 7 4. The Oklahoma Center for the Advancement of Science and
8 Technology, as provided for in Section 5060.7 of Title 74 of the
9 Oklahoma Statutes;
- 10 5. The Oklahoma Health Research Committee for purposes of
11 conferring on matters pertaining to research and development of
12 products, if public disclosure of the matter discussed would
13 interfere with the development of patents, copyrights, products, or
14 services;
- 15 6. The Workers' Compensation Commission for the purposes
16 provided for in Section 20 of Title 85A of the Oklahoma Statutes;
- 17 7. A review committee, as provided for in Section 855 of Title
18 62 of the Oklahoma Statutes;
- 19 8. The Child Death Review Board for purposes of receiving and
20 conferring on matters pertaining to materials declared confidential
21 by law;
- 22 9. The Domestic Violence Fatality Review Board as provided in
23 Section 1601 of Title 22 of the Oklahoma Statutes;
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1 10. The Opioid Overdose Fatality Review Board, as provided in
2 Section 2-1001 of Title 63 of the Oklahoma Statutes;

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

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

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

23 14. The Judicial Nominating Commission for the purposes of
24 discussing the merits and qualifications of candidates for judicial

1 office to determine which candidates will be interviewed or solely
2 to meet with a candidate to discuss confidential information
3 relating to financial disclosure information or background checks.
4 Candidate interviews shall not be conducted in executive sessions
5 and Commissioners shall not vote or indicate how they intend to vote
6 in executive session.

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

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

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

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

23 3. Except for matters considered in executive sessions of the
24 State Banking Board and the Oklahoma Savings and Loan Board, and

1 which are required by state or federal law to be confidential, any
2 vote or action on any item of business considered in an executive
3 session shall be taken in public meeting with the vote of each
4 member publicly cast and recorded.

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

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

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

10 SECTION 3. AMENDATORY 25 O.S. 2011, Section 310, is
11 amended to read as follows:

12 Section 310. Any member of the Legislature appointed as a
13 member of a committee of either house of the Legislature or joint
14 committee thereof shall be permitted to attend any executive session
15 authorized by the Oklahoma Open Meeting Act of any state agency,
16 board or commission whenever the jurisdiction of such committee
17 includes the actions of the public body involved; provided, however,
18 a member of the Legislature shall not be permitted to attend an
19 executive session of the Judicial Nominating Commission authorized
20 pursuant to paragraph 14 of subsection C of Section 307 of this
21 title.

22 SECTION 4. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/08/2021 - DO PASS.

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