

CLOSED PUBLIC MEETING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies a provision relating to the purposes for which a closed meeting may be held.

Highlighted Provisions:

This bill:

- ▶ includes the consideration of a loan application among the reasons for which a meeting of a public body may be closed, if public discussion of the loan application would disclose certain nonpublic information.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2022, Chapters 237, 237, 290, 290, 332, 332, 335, 422, 422, 478, and 478

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **52-4-205** is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section **52-4-204** may only be held for:

- 30 (a) except as provided in Subsection (3), discussion of the character, professional
- 31 competence, or physical or mental health of an individual;
- 32 (b) strategy sessions to discuss collective bargaining;
- 33 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 34 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 35 including any form of a water right or water shares, or to discuss a proposed development
- 36 agreement, project proposal, or financing proposal related to the development of land owned by
- 37 the state, if public discussion would:
 - 38 (i) disclose the appraisal or estimated value of the property under consideration; or
 - 39 (ii) prevent the public body from completing the transaction on the best possible terms;
- 40 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 41 right or water shares, if:
 - 42 (i) public discussion of the transaction would:
 - 43 (A) disclose the appraisal or estimated value of the property under consideration; or
 - 44 (B) prevent the public body from completing the transaction on the best possible terms;
 - 45 (ii) the public body previously gave public notice that the property would be offered for
 - 46 sale; and
 - 47 (iii) the terms of the sale are publicly disclosed before the public body approves the
 - 48 sale;
- 49 (f) discussion regarding deployment of security personnel, devices, or systems;
- 50 (g) investigative proceedings regarding allegations of criminal misconduct;
- 51 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 52 relating to the receipt or review of ethics complaints;
 - 53 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
 - 54 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
 - 55 (j) as relates to the Independent Executive Branch Ethics Commission created in
 - 56 Section [63A-14-202](#), conducting business relating to an ethics complaint;
 - 57 (k) as relates to a county legislative body, discussing commercial information as

58 defined in Section 59-1-404;

59 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
60 board of directors, discussing fiduciary or commercial information as defined in Section
61 53B-12-102;

62 (m) deliberations, not including any information gathering activities, of a public body
63 acting in the capacity of:

64 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
65 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

66 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
67 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

68 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
69 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
70 Procurement Appeals Board;

71 (n) the purpose of considering information that is designated as a trade secret, as
72 defined in Section 13-24-2, if the public body's consideration of the information is necessary to
73 properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

74 (o) the purpose of discussing information provided to the public body during the
75 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
76 the meeting:

77 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
78 disclosed to a member of the public or to a participant in the procurement process; and

79 (ii) the public body needs to review or discuss the information to properly fulfill its
80 role and responsibilities in the procurement process;

81 (p) as relates to the governing board of a governmental nonprofit corporation, as that
82 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
83 as a trade secret, as that term is defined in Section 13-24-2, if:

84 (i) public knowledge of the discussion would reasonably be expected to result in injury
85 to the owner of the trade secret; and

86 (ii) discussion of the information is necessary for the governing board to properly
87 discharge the board's duties and conduct the board's business;

88 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
89 to review confidential information regarding violations and security requirements in relation to
90 the operation of cannabis production establishments; [~~or~~]

91 (r) considering a loan application, if public discussion of the loan application would
92 disclose:

93 (i) nonpublic personal financial information; or

94 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business
95 financial information the disclosure of which would reasonably be expected to result in unfair
96 competitive injury to the person submitting the information; or

97 [~~(r)~~] (s) a purpose for which a meeting is required to be closed under Subsection (2).

98 (2) The following meetings shall be closed:

99 (a) a meeting of the Health and Human Services Interim Committee to review a report
100 described in Subsection 62A-16-301(1)(a), and the responses to the report described in
101 Subsections 62A-16-301(2) and (4);

102 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

103 (i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the
104 report described in Subsections 62A-16-301(2) and (4); or

105 (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

106 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
107 Section 26-7-13, to review and discuss an individual case, as described in Subsection
108 26-7-13(10);

109 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
110 purpose of advising the Natural Resource Conservation Service of the United States
111 Department of Agriculture on a farm improvement project if the discussed information is
112 protected information under federal law;

113 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for

114 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
115 [26-61a-105](#);

116 (f) a meeting of the Colorado River Authority of Utah if:

117 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
118 the Colorado River system; and

119 (ii) failing to close the meeting would:

120 (A) reveal the contents of a record classified as protected under Subsection
121 [63G-2-305](#)(82);

122 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
123 Colorado River system;

124 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
125 negotiate the best terms and conditions regarding the use of water in the Colorado River
126 system; or

127 (D) give an advantage to another state or to the federal government in negotiations
128 regarding the use of water in the Colorado River system;

129 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

130 (i) the purpose of the meeting is to discuss an application for participation in the
131 regulatory sandbox as defined in Section [63N-16-102](#); and

132 (ii) failing to close the meeting would reveal the contents of a record classified as
133 protected under Subsection [63G-2-305](#)(83);

134 (h) a meeting of a project entity if:

135 (i) the purpose of the meeting is to conduct a strategy session to discuss market
136 conditions relevant to a business decision regarding the value of a project entity asset if the
137 terms of the business decision are publicly disclosed before the decision is finalized and a
138 public discussion would:

139 (A) disclose the appraisal or estimated value of the project entity asset under
140 consideration; or

141 (B) prevent the project entity from completing on the best possible terms a

142 contemplated transaction concerning the project entity asset;

143 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could
144 cause commercial injury to, or confer a competitive advantage upon a potential or actual
145 competitor of, the project entity;

146 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of
147 which could cause commercial injury to, or confer a competitive advantage upon a potential or
148 actual competitor of, the project entity; or

149 (iv) failing to close the meeting would prevent the project entity from getting the best
150 price on the market; and

151 (i) a meeting of the School Activity Eligibility Commission, described in Section
152 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to
153 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's
154 eligibility to participate in an interscholastic activity, as that term is defined in Section
155 53G-6-1001, including the commission's determinative vote on the student's eligibility.

156 (3) In a closed meeting, a public body may not:

157 (a) interview a person applying to fill an elected position;

158 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
159 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
160 or

161 (c) discuss the character, professional competence, or physical or mental health of the
162 person whose name was submitted for consideration to fill a midterm vacancy or temporary
163 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
164 Temporary Absence in Elected Office.