
SUBSTITUTE SENATE BILL 6047

State of Washington

68th Legislature

2024 Regular Session

By Senate State Government & Elections (originally sponsored by Senators Warnick, Boehnke, and Short)

1 AN ACT Relating to executive sessions under the open public
2 meetings act in order to comply with the climate commitment act;
3 reenacting and amending RCW 42.30.110; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The climate commitment act requires some
6 publicly owned natural gas and electric utilities and other
7 government agencies to obtain greenhouse gas allowances to cover a
8 portion of emissions. Because the allowance auctions must be
9 carefully regulated to guard against market interference, market
10 participants are strictly prohibited from disclosing any information
11 about how they plan to participate in a specific auction. Investor-
12 owned utilities, which are governed by a private board of directors,
13 are able to keep this information confidential. In contrast, many
14 public agencies are overseen by governing boards that are subject to
15 the open public meetings act, which requires that deliberations be
16 conducted in public. This act allows the governing body of a public
17 agency to meet in executive session to consider the information
18 necessary to comply with the climate commitment act's protection of
19 all information necessary to participate in the greenhouse gas
20 allowance market.

1 **Sec. 2.** RCW 42.30.110 and 2022 c 153 s 13 and 2022 c 115 s 12
2 are each reenacted and amended to read as follows:

3 (1) Nothing contained in this chapter may be construed to prevent
4 a governing body from holding an executive session during a regular
5 or special meeting:

6 (a) (i) To consider matters affecting national security;

7 (ii) To consider, if in compliance with any required data
8 security breach disclosure under RCW 19.255.010 and 42.56.590, and
9 with legal counsel available, information regarding the
10 infrastructure and security of computer and telecommunications
11 networks, security and service recovery plans, security risk
12 assessments and security test results to the extent that they
13 identify specific system vulnerabilities, and other information that
14 if made public may increase the risk to the confidentiality,
15 integrity, or availability of agency security or to information
16 technology infrastructure or assets;

17 (b) To consider the selection of a site or the acquisition of
18 real estate by lease or purchase when public knowledge regarding such
19 consideration would cause a likelihood of increased price;

20 (c) To consider the minimum price at which real estate will be
21 offered for sale or lease when public knowledge regarding such
22 consideration would cause a likelihood of decreased price. However,
23 final action selling or leasing public property shall be taken in a
24 meeting open to the public;

25 (d) To review negotiations on the performance of publicly bid
26 contracts when public knowledge regarding such consideration would
27 cause a likelihood of increased costs;

28 (e) To consider, in the case of an export trading company,
29 financial and commercial information supplied by private persons to
30 the export trading company;

31 (f) To receive and evaluate complaints or charges brought against
32 a public officer or employee. However, upon the request of such
33 officer or employee, a public hearing or a meeting open to the public
34 shall be conducted upon such complaint or charge;

35 (g) To evaluate the qualifications of an applicant for public
36 employment or to review the performance of a public employee.
37 However, subject to RCW 42.30.140(4), discussion by a governing body
38 of salaries, wages, and other conditions of employment to be
39 generally applied within the agency shall occur in a meeting open to
40 the public, and when a governing body elects to take final action

1 hiring, setting the salary of an individual employee or class of
2 employees, or discharging or disciplining an employee, that action
3 shall be taken in a meeting open to the public;

4 (h) To evaluate the qualifications of a candidate for appointment
5 to elective office. However, any interview of such candidate and
6 final action appointing a candidate to elective office shall be in a
7 meeting open to the public;

8 (i) To discuss with legal counsel representing the agency matters
9 relating to agency enforcement actions, or to discuss with legal
10 counsel representing the agency litigation or potential litigation to
11 which the agency, the governing body, or a member acting in an
12 official capacity is, or is likely to become, a party, when public
13 knowledge regarding the discussion is likely to result in an adverse
14 legal or financial consequence to the agency.

15 This subsection (1)(i) does not permit a governing body to hold
16 an executive session solely because an attorney representing the
17 agency is present. For purposes of this subsection (1)(i), "potential
18 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
19 concerning:

20 (i) Litigation that has been specifically threatened to which the
21 agency, the governing body, or a member acting in an official
22 capacity is, or is likely to become, a party;

23 (ii) Litigation that the agency reasonably believes may be
24 commenced by or against the agency, the governing body, or a member
25 acting in an official capacity; or

26 (iii) Litigation or legal risks of a proposed action or current
27 practice that the agency has identified when public discussion of the
28 litigation or legal risks is likely to result in an adverse legal or
29 financial consequence to the agency;

30 (j) To consider, in the case of the state library commission or
31 its advisory bodies, western library network prices, products,
32 equipment, and services, when such discussion would be likely to
33 adversely affect the network's ability to conduct business in a
34 competitive economic climate. However, final action on these matters
35 shall be taken in a meeting open to the public;

36 (k) To consider, in the case of the state investment board,
37 financial and commercial information when the information relates to
38 the investment of public trust or retirement funds and when public
39 knowledge regarding the discussion would result in loss to such funds
40 or in private loss to the providers of this information;

1 (l) To consider proprietary or confidential nonpublished
2 information related to the development, acquisition, or
3 implementation of state purchased health care services as provided in
4 RCW 41.05.026;

5 (m) To consider in the case of the life sciences discovery fund
6 authority, the substance of grant applications and grant awards when
7 public knowledge regarding the discussion would reasonably be
8 expected to result in private loss to the providers of this
9 information;

10 (n) To consider in the case of a health sciences and services
11 authority, the substance of grant applications and grant awards when
12 public knowledge regarding the discussion would reasonably be
13 expected to result in private loss to the providers of this
14 information;

15 (o) To consider information regarding staff privileges or quality
16 improvement committees under RCW 70.41.205;

17 (p) To consider proprietary or confidential data collected or
18 analyzed pursuant to chapter 70.405 RCW;

19 (q) To consider in the case of a governing body of a publicly
20 owned natural gas or electric utility or other government agency
21 greenhouse gas allowance auction bidding information that is
22 prohibited from release or disclosure under RCW 70A.65.100(8).

23 (2) Before convening in executive session, the presiding officer
24 of a governing body shall publicly announce the purpose for excluding
25 the public from the meeting place, and the time when the executive
26 session will be concluded. The executive session may be extended to a
27 stated later time by announcement of the presiding officer. The
28 announced purpose of excluding the public must be entered into the
29 minutes of the meeting required by RCW 42.30.035.

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