

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE
5 BILL NO. 1298

 By: Rader of the Senate

 and

 Pfeiffer of the House

6
7
8
9 An Act relating to the Oklahoma Open Meeting Act;
10 amending 25 O.S. 2021, Sections 307 and 307.1, which
11 relate to executive sessions and videoconference
12 exceptions; authorizing the Oklahoma Tax Commission
13 to hold executive session for certain purposes;
14 updating statutory language; providing exceptions;
15 authorizing taxpayers to attend executive session
16 with the Commission via videoconference; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 25 O.S. 2021, Section 307, is
20 amended to read as follows:

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

23 B. Executive sessions of public bodies will be permitted only
24 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;

23

24

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 State 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:
- 23
- 24

- 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;

24

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;

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
24

1 government, for purposes of discussing security plans and procedures
2 including, but not limited to, cybersecurity matters; and

3 15. The Oklahoma Tax Commission for purposes of discussing
4 confidential taxpayer matters as provided in Section 205 of Title 68
5 of the Oklahoma Statutes, and in compliance with subsection E of
6 this section.

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~~ Oklahoma

1 Tax Commission, and which are required by state or federal law to be
2 confidential, any vote or action on any item of business considered
3 in an executive session shall be taken in public meeting with the
4 vote of each 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 2. AMENDATORY 25 O.S. 2021, Section 307.1, is
11 amended to read as follows:

12 Section 307.1. A. Except as provided in subsections C and D of
13 this section, a public body may hold meetings by videoconference
14 where each member of the public body is visible and audible to each
15 other and the public through a video monitor, subject to the
16 following:

17 1. a. except as provided for in subparagraph b of this
18 paragraph, no less than a quorum of the public body
19 shall be present in person at the meeting site as
20 posted on the meeting notice and agenda,

21 b. a virtual charter school approved and sponsored by the
22 Statewide Virtual Charter School Board pursuant to the
23 provisions of Section 3-145.3 of Title 70 of the
24 Oklahoma Statutes shall maintain a quorum of members

1 for the entire duration of the meeting whether using
2 an in-person site, videoconference sites or any
3 combination of such sites to achieve a quorum⁷, and

4 c. each public meeting held by videoconference or
5 teleconference shall be recorded either by written,
6 electronic, or other means;

7 2. The meeting notice and agenda prepared in advance of the
8 meeting, as required by law, shall indicate if the meeting will
9 include videoconferencing locations and shall state:

10 a. the location, address, and telephone number of each
11 available videoconference site, and

12 b. the identity of each member of the public body and the
13 specific site from which each member of the body shall
14 be physically present and participating in the
15 meeting;

16 3. After the meeting notice and agenda are prepared and posted,
17 as required by law, no member of the public body shall be allowed to
18 participate in the meeting from any location other than the specific
19 location posted on the agenda in advance of the meeting;

20 4. In order to allow the public the maximum opportunity to
21 attend and observe each public official carrying out the duties of
22 the public official, a member or members of a public body desiring
23 to participate in a meeting by videoconference shall participate in
24 the videoconference from a site and room located within the district

1 or political subdivision from which they are elected, appointed, or
2 are sworn to represent;

3 5. Each site and room where a member of the public body is
4 present for a meeting by videoconference shall be open and
5 accessible to the public, and the public shall be allowed into that
6 site and room. Public bodies may provide additional videoconference
7 sites as a convenience to the public, but additional sites shall not
8 be used to exclude or discourage public attendance at any
9 videoconference site;

10 6. The public shall be allowed to participate and speak, as
11 allowed by rule or policy set by the public body, in a meeting at
12 the videoconference site in the same manner and to the same extent
13 as the public is allowed to participate or speak at the site of the
14 meeting;

15 7. Any materials shared electronically between members of the
16 public body, before or during the videoconference, shall also be
17 immediately available to the public in the same form and manner as
18 shared with members of the public body; and

19 8. All votes occurring during any meeting conducted using
20 videoconferencing shall occur and be recorded by roll call vote.

21 B. ~~No~~ Except as provided for in subsection E of this section,
22 no public body shall conduct an executive session by
23 videoconference.

24

1 C. Upon the effective date of this act and until February 15,
2 2022, or until thirty (30) days after the expiration or termination
3 of the state of emergency declared by the Governor to respond to the
4 threat of COVID-19 to the people of this state and the public's
5 peace, health and safety, whichever date first occurs, the
6 provisions of this subsection and subsection D shall operate as law
7 in this state.

8 1. A public body may hold meetings by teleconference or
9 videoconference if each member of the public body is audible or
10 visible to each other and the public, subject to the following:

11 a. for a virtual charter school approved and sponsored by
12 the Statewide Virtual Charter School Board pursuant to
13 the provisions of the Oklahoma Statutes, the public
14 body shall maintain a quorum of members for the entire
15 duration of the meeting whether using an in-person
16 site, teleconference, or videoconference or any
17 combination of such sites to achieve a quorum, and

18 b. if the meeting is held using either teleconference or
19 videoconference capabilities, and at any time the
20 audio connection is disconnected, the meeting shall be
21 stopped and reconvened once the audio connection is
22 restored;

23
24

1 2. The meeting notice and agenda prepared in advance of the
2 meeting, as required by law, shall indicate if the meeting will
3 include teleconferencing or videoconferencing and shall also state:

4 a. each public body member appearing remotely and the
5 method of each member's remote appearance, and

6 b. the identity of the public body member or members who
7 will be physically present at the meeting site, if
8 any;

9 3. After the meeting notice and agenda are prepared and posted
10 as required by law, public body members shall not be permitted to
11 alter their method of attendance; provided, however, those members
12 who were identified as appearing remotely may be permitted to
13 physically appear at the meeting site, if any, for the meeting;

14 4. The public body shall be allowed to participate and speak,
15 as allowed by rule or policy set by the public body, in a meeting
16 which utilizes teleconference or videoconference in the same manner
17 and to the same extent as the public is allowed to participate or
18 speak during a meeting where all public body members are physically
19 present together at the meeting site;

20 5. Any documents or other materials provided to members of the
21 public body or shared electronically between members of the public
22 body during a meeting utilizing teleconferencing or
23 videoconferencing shall also be immediately available to the public
24

1 on the website of the public body, if the public body maintains a
2 website; and

3 6. All votes occurring during any meeting utilizing
4 teleconference or videoconference shall occur and be recorded by
5 roll call votes.

6 D. Public bodies are permitted to conduct an executive session
7 by teleconference or videoconference. For such executive sessions,
8 no public body member is required to be physically present so long
9 as each public body member is audible or visible to each other. The
10 meeting notice and agenda prepared in advance of the meeting as
11 required by law shall indicate if the executive session will include
12 teleconferencing or videoconferencing and shall also state the
13 identity of each public body member appearing remotely, the method
14 of each member's remote appearance, and whether any member will be
15 physically present at the meeting site, if any, for the executive
16 session.

17 E. The Oklahoma Tax Commission may conduct executive sessions
18 with the taxpayer at issue attending using videoconference
19 technology to discuss confidential taxpayer matters as provided for
20 in Section 205 of Title 68 of the Oklahoma Statutes. During
21 executive sessions, the Commission is required to be physically
22 present while taxpayers may appear using videoconference technology.
23 The technology selected and utilized by the Commission shall ensure
24

1 taxpayer confidentiality including compliance with safeguards as
2 provided for in Internal Revenue Service Publication 1075.

3 SECTION 3. This act shall become effective November 1, 2022.

4
5 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
6 04/14/2022 - DO PASS.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24