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§ 157. Violation of act a misdemeanor—Fine

Any person, firm, association, lodge, fraternity, or club who shall fail to comply with the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

Laws 1939, p. 8, § 7.

CHAPTER 6.—MEETINGS OF GOVERNING BODIES [REPEALED]

§§ 201, 202. Repealed by Laws 1977, c. 214, § 15, eff. Oct. 1, 1977

From:

Laws 1959, pp. 256, 257, §§ 1, 2.

Laws 1967, c. 232, § 1.

Laws 1971, c. 320, § 1.

See, now, Title 25, § 301 et seq.

CHAPTER 7.—CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED

Section

221. Use of certified mail with return receipt requested in place of registered mail.

§ 221. Use of certified mail with return receipt requested in place of registered mail

It is hereby declared and directed that use of "certified United States mail with return receipt requested," or "certified mail," "restricted delivery" shall be a full and complete legal compliance with the statutes of Oklahoma permitting, directing, or requiring use of "registered United States mail" or "certified United States mail" or "Certified United States Mail" a return receipt requested, or "certified United States mail," "restricted delivery," or any other such similar designations by any person in a public or private capacity, and all provisions of the statutes of Oklahoma are hereby modified to effect such change. Laws 1961, p. 240, § 1, eff. March 21, 1961. Laws 1977, c. 217, § 1.

Notice ⇨9.

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CHAPTER 8.—PUBLIC MEETINGS

OPEN MEETING ACT

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OPEN MEETING ACT

§ 301. Citation

This act¹ shall be known as the Oklahoma Open Meeting Act.

Laws 1977, c. 214, § 1, eff. Oct. 1, 1977.

¹ Title 25, §§ 250 et seq. and 301 et seq.

Construction and application

Language used by legislature in creating mala prohibita offense in the Open Meeting Act, together with the inclusion of a penal provision, make it a penal statute which must be strictly construed. State v. Patton, Okl.Cr., 837 P.2d 483, 77 Ed. Law Rep. 948 (1992).

Liberal construction. Matter of Order Declaring Annexation Dated June 28, 1978, Issued by Frazier, Okl.App., 637 P.2d 1270 (1981).

§ 302. Public policy

It is the public policy of the State of Oklahoma to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems.

Laws 1977, c. 214, § 2, eff. Oct. 1, 1977.

§ 303. Times and places—Advance notice

All meetings of public bodies, as defined hereinafter, shall be held at specified times and places which are convenient to the public and shall be open to the public, except as hereinafter specifically provided. All meetings of such public bodies, except for executive sessions of the State Banking Board and Oklahoma Savings and Loan Board, shall be preceded by advance public notice specifying the time and place of each such meeting to be convened as well as the subject matter or matters to be considered at such meeting, as hereinafter provided.

Laws 1977, c. 214, § 3, eff. Oct. 1, 1977; Laws 1987, c. 61, § 19, emerg. eff. May 4, 1987.

Administrative Law and Procedure ⇨124.

Counties ⇨52.

Municipal Corporations ⇨86.

Schools ⇨57.

§ 304. Definitions

As used in the Oklahoma Open Meeting Act:

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 higher education in this state and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts or any entity created by a public trust, task forces or study groups in this state supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcom-

mittees of any public body. It shall not mean the state judiciary, the Council on Judicial Complaints when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council, the Legislature, or administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when those staffs are not meeting with the public body, or entry-year assistance committees. Furthermore, it shall not mean the multidisciplinary team provided for in subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of a multidisciplinary team and deciding the placement of any child who is the subject of such recommendations. Furthermore, it shall not mean meetings conducted by stewards designated by the Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title 3A of the Oklahoma Statutes when the stewards are officiating at races or otherwise enforcing rules of the Commission;

2. "Meeting" means the conduct of business of a public body by a majority of its members being personally together or, as authorized by Section 307.1 of this title, together pursuant to a teleconference;

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

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

5. "Emergency meeting" means any meeting called for the purpose of dealing with an emergency. For purposes of this act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss;

6. "Continued or reconvened meeting" means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting; and

7. "Teleconference" means a conference among members of a public body remote from one another who are linked by interactive telecommunication devices permitting both visual and auditory communication between and among members of the public body and members of the public.

Laws 1977, c. 214, § 4, eff. Oct. 1, 1977; Laws 1982, c. 342, § 12, eff. June 2, 1982; Laws 1988, c. 153, § 6, eff. July 1, 1988; Laws 1993, c. 282, § 1, eff. Sept. 1, 1993; Laws 1998, c. 370, § 3, eff. Nov. 1, 1998; Laws 1999, c. 1, § 9, emerg. eff. Feb. 24, 1999; Laws 1999, c. 423, § 10, emerg. eff. June 10, 1999.

Section 1 of Laws 1998, c. 315, amending this section, was repealed by Laws 1999, c. 1, § 45.

Administrative Law and Procedure ⇨124.

Counties ⇨52.

Municipal Corporations ⇨86.

Schools ⇨57.

Construction and application

International Ass'n of Firefighters, Local 2479 v. Thorpe, Okl., 63 P.2d 408 (1981).

§ 305. Recording of votes

In all meetings of public bodies, the vote of each member must be publicly cast and recorded.

Laws 1977, c. 214, § 5, eff. Oct. 1, 1977.

Administrative Law and Procedure ⇨126, 127.

Counties ⇨53.

Municipal Corporations ⇨100.

Construction and application

Public announcement in the presence of all its board members the vote of Board of Education was 5-0 in favor of nonrenewal of tenure teacher's teaching contract satisfied requirement of § 201 of this title (repealed; now § 301 et seq.) that "vote of each member must be publicly cast." Graybill v. Oklahoma State Bd. of Ed., Okl., 585 P.2 1358 (1978).

§ 306. Circumvention of act—Teleconference excepted

No informal gatherings or any electronic or telephonic communications, except teleconferences as authorized by Section 3 of this act,¹ among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter.

Laws 1977, c. 214, § 6, eff. Oct. 1, 1977; Laws 1993, c. 28 § 2, eff. Sept. 1, 1993.

¹ Section 307.1 of this title.

Administrative Law and Procedure ⇨124.

Counties ⇨52.

Municipal Corporations ⇨90.

Schools ⇨57.

§ 307. Executive sessions

A. No public body shall hold executive session unless otherwise specifically provided in this section.

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

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

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

3. Discussing the purchase or appraisal of real property;

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

5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of

student when requested by the student involved or his parent, attorney or legal guardian;

6. Discussing matters involving a specific handicapped child;

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

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

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

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

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

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

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

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

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

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

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

9. The Domestic Violence Fatality Review Board as provided in Section 1 of this act;²

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

11. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers

to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act, Section 1355 et seq. of Title 22 of the Oklahoma Statutes.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

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

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

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

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

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

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

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

Laws 1977, c. 214, § 7, eff. Oct. 1, 1977. Laws 1985, c. 168, § 9, eff. June 18, 1985; Laws 1985, c. 218, § 1, eff. Nov. 1, 1985; Laws 1986, c. 264, § 12, operative July 1, 1986; Laws 1987, c. 61, § 20, emerg. eff. May 4, 1987; Laws 1987, c. 222, § 115, operative July 1, 1987; Laws 1988, c. 153, § 7, eff. July 1, 1988; Laws 1989, c. 7, § 1, emerg. eff. March 27, 1989; Laws 1989, c. 200, § 1, emerg. eff. May 8, 1989; Laws 1992, c. 12, § 1, eff. Sept. 1, 1992; Laws 1993, c. 69, § 1, eff. Sept. 1, 1993; Laws 1993, c. 195, § 3, eff. July 1, 1993; Laws 1994, c. 384, § 13, eff. July 1, 1994; Laws 1998, c. 315, § 2, emerg. eff. May 28, 1998; Laws 1999, c. 1, § 10, emerg. eff. Feb. 24, 1999; Laws 2001, c. 284, § 3, eff. July 1, 2001.

¹ See Title 75, § 250.1 for composition of articles.

² O.S.L.2001, c. 284, § 1 [Title 22, § 1601].

Section 6 of Laws 1998, c. 201, amending this section, was repealed by Laws 1999, c. 1, § 45.

Administrative Law and Procedure ⇐124.

Counties ⇐52.

Municipal Corporations ⇐86.

Schools ⇐57.

Construction and application

An executive session of a public body is not permitted under the Open Meeting Act unless a majority of a quorum of the members

present vote to hold an executive session. *Berry v. Board of Governors of Registered Dentists of Oklahoma*, Okl., 611 P.2d 628 (1980).

§ 307.1. Teleconferences

A. No public body shall hold meetings by teleconference except:

1. Oklahoma Futures;
2. The Oklahoma State Regents for Higher Education;
3. The Oklahoma Board of Medical Licensure and Supervision;
4. The State Board of Osteopathic Examiners;
5. The Board of Dentistry;
6. The Variance and Appeals Boards created in Sections 1021.1, 1697 and 1850.16 of Title 59 of the Oklahoma Statutes;

7. A public trust whose beneficiary is a municipality; however, no more than twenty percent (20%) of a quorum of the trustees may participate by teleconference and during any such meetings all votes shall be roll call votes;

8. The Native American Cultural and Educational Authority;

9. The Corporation Commission; and

10. The State Board of Vocational and Technical Education.

B. No public body authorized to hold meetings by teleconference shall conduct an executive session by teleconference.

Laws 1993, c. 282, § 3, eff. Sept. 1, 1993; Laws 1994, c. 323, § 37, eff. July 1, 1994; Laws 1995, c. 152, § 1, eff. Nov. 1, 1995; Laws 1995, c. 358, § 2, eff. Nov. 1, 1995; Laws 1997, c. 108, § 1, eff. Nov. 1, 1997; Laws 1998, c. 315, § 3, emerg. eff. May 28, 1998; Laws 1999, c. 397, § 16, emerg. eff. June 10, 1999; Laws 2000, c. 6, § 6, emerg. eff. March 20, 2000; Laws 2000, c. 148, § 1, eff. July 1, 2000.

Section 1 of Laws 1999, c. 259, amending this section, was repealed by Laws 2000, c. 6, § 33.

Section 6 of Laws 1995, c. 1, amending this section, was repealed by Laws 1995, c. 358, § 13.

Section 14 of Laws 1994, c. 293, amending this section, was repealed by Laws 1995, c. 1, § 40.

§ 308. Meeting between Governor and majority members of public body

Any meeting between the Governor and a majority of members of any public body shall be open to the public and subject to all other provisions of this act¹.
Laws 1977, c. 214, § 8, eff. Oct. 1, 1977.

¹ Title 25, §§ 250 et seq. and 301 et seq.

Administrative Law and Procedure ⇨124.

Counties ⇨52.

Municipal Corporations ⇨86, 87.

Schools ⇨57.

§ 309. Legislature

The Legislature shall conduct open meetings in accordance with rules to be adopted by each house thereof.

Laws 1977, c. 214, § 9, eff. Oct. 1, 1977.

States ⇨32.

§ 310. Legislative committee members attending executive sessions

Any member of the Legislature appointed as a member of a committee of either house of the Legislature or joint committee thereof shall be permitted to attend any executive session authorized by the Oklahoma Open Meeting Act¹ of any state agency, board or commission whenever the jurisdiction of such committee includes the actions of the public body involved. Laws 1977, c. 214, § 10, eff. Oct. 1, 1977. Laws 1981, c. 272, § 7, eff. July 1, 1981.

¹ Title 25, §§ 250 et seq. and 301 et seq.

Administrative Law and Procedure ⇨124.

States ⇨34.

§ 311. Public bodies—Notice

A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule—showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year.

2. All state public bodies, including, but not limited to, public trusts and other bodies with the state as beneficiary, shall give such notice to the Secretary of State.

3. All county public bodies, including, but not limited to, public trusts and any other bodies with the county as beneficiary, shall give such notice to the county clerk of the county wherein they are principally located.

4. All municipal public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located.

5. All multicounty, regional, areawide or district public bodies, including, but not limited to, district boards of education, shall give such notice to the county clerk of the county wherein they are principally located, or if no office exists, to the county clerk of the county or counties served by such public body.

6. All governing boards of state institutions of higher education, and committees and subcommittees thereof, shall give such notice to the Secretary of State. All other public bodies covered by the provisions of this act¹ which exist under the auspices of a state institution of higher education, but a majority of whose members are not members of the institution's governing board, shall give such notice to the county clerk of the county wherein the institution is principally located.

7. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices

received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of said register.

8. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to the Secretary of State or county clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change.

9. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, all public bodies shall, at least twenty-four (24) hours prior to such meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting, such twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma; provided, however, the posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. "New business", as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.

10. In the event any meeting is to be continued or reconvened, public notice of such action, including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

11. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to said meetings. Such public notice of date, time and place shall be given in writing, in person or by telephonic means to the Secretary of State or to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of this section. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station, and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars (\$18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said

meeting. Only matters appearing on the posted agenda may be considered at said special meeting. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. Twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

12. In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.²

2. If a public body proposes to conduct an executive session, the agenda shall:

- a. contain sufficient information for the public to ascertain that an executive session will be proposed;
- b. identify the items of business and purposes of the executive session; and
- c. state specifically the provision of Section 307 of this title authorizing the executive session.

Laws 1977, c. 214, § 11, eff. Oct. 1, 1977; Laws 1987, c. 184, § 1, eff. Nov. 1, 1987; Laws 1992, c. 12, § 2, eff. Sept. 1, 1992.

1 Title 25, § 301 et seq.

2 Title 75, § 250 et seq.

Administrative Law and Procedure ⇨124.

Counties ⇨52.

Municipal Corporations ⇨89.

Schools ⇨57.

Construction and application

Haworth Bd. of Ed. of Independent School Dist. No. 1-6, McCurtain County v. Havens, Okl.App., 637 P.2d 902 (1981).

Hilliary v. State, 630 P.2d 791 (1981).

§ 312. Minutes of meetings—Recording of proceedings

A. The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.¹

B. In the written minutes of an emergency meeting, the nature of the emergency and the proceedings occurring at such meeting, including reasons for declaring such emergency meeting, shall be included.

C. Any person attending a public meeting may record the proceedings of said meeting by videotape, audiotape or by any other method; providing, however, such recording shall not interfere with the conduct of the meeting.

Laws 1977, c. 214, § 12, eff. Oct. 1, 1977; Laws 1992, c. 78, § 1, emerg. eff. April 13, 1992.

1 Title 25, § 301 et seq.

Administrative Law and Procedure ⇨124.

Counties ⇨53.

Municipal Corporations ⇨100.

Schools ⇨58.

§ 313. Actions taken in willful violation of act

Any action taken in willful violation of this act¹ shall be invalid.

Laws 1977, c. 214, § 13, eff. Oct. 1, 1977.

1 Title 25, §§ 250 et seq. and 301 et seq.

Administrative Law and Procedure ⇨124.

Counties ⇨57.

Municipal Corporations ⇨103.

Schools ⇨60.

§ 314. Violations—Misdemeanor—Penalty

Any person or persons willfully violating any of the provisions of this act¹ shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment.

Laws 1977, c. 214, § 14, eff. Oct. 1, 1977.

1 Title 25, §§ 250 et seq. and 301 et seq.

Administrative Law and Procedure ⇨124.

Counties ⇨102.

Municipal Corporations ⇨174.

Schools ⇨48(8), 62.

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