

OPEN MEETINGS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies a provision relating to open and public meetings.

Highlighted Provisions:

This bill:

► modifies the purposes for which a closed meeting may be held to include the purpose of receiving legal advice from the public body's attorney.

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 2014, Chapter 196

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:

(a) except as provided in Subsection (3), discussion of the character, professional



- 28 competence, or physical or mental health of an individual;
- 29 (b) strategy sessions to discuss collective bargaining;
- 30 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 31 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 32 including any form of a water right or water shares, if public discussion of the transaction
- 33 would:
- 34 (i) disclose the appraisal or estimated value of the property under consideration; or
- 35 (ii) prevent the public body from completing the transaction on the best possible terms;
- 36 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 37 right or water shares, if:
- 38 (i) public discussion of the transaction would:
- 39 (A) disclose the appraisal or estimated value of the property under consideration; or
- 40 (B) prevent the public body from completing the transaction on the best possible terms;
- 41 (ii) the public body previously gave public notice that the property would be offered for
- 42 sale; and
- 43 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 44 sale;
- 45 (f) discussion regarding deployment of security personnel, devices, or systems;
- 46 (g) investigative proceedings regarding allegations of criminal misconduct;
- 47 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 48 relating to the receipt or review of ethics complaints;
- 49 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 50 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 51 (j) as relates to the Independent Executive Branch Ethics Commission created in
- 52 Section [63A-14-202](#), conducting business relating to an ethics complaint;
- 53 (k) as relates to a county legislative body, discussing commercial information as
- 54 defined in Section [59-1-404](#);
- 55 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
- 56 board of directors, discussing fiduciary or commercial information as defined in Section
- 57 [53B-12-102](#);
- 58 (m) deliberations, not including any information gathering activities, of a public body

59 acting in the capacity of:

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

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

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

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

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

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

75 (ii) the public body needs to review or discuss the information in order to properly
76 fulfill its role and responsibilities in the procurement process; ~~or~~

77 (p) a purpose for which a meeting is required to be closed under Subsection (2)[-]; or

78 (q) the purpose of receiving legal advice from an attorney if:

79 (i) the attorney represents the public body on a subject matter over which the public
80 body has jurisdiction or that is the public body's responsibility; and

81 (ii) the legal advice relates to that subject matter.

82 (2) The following meetings shall be closed:

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

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

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

89 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

90 and

91 (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose
92 of advising the Natural Resource Conservation Service of the United States Department of
93 Agriculture on a farm improvement project if the discussed information is protected
94 information under federal law.

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

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

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

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