

Representative Stephen G. Handy proposes the following substitute bill:

OPEN MEETINGS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

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 discussing a protected audit report that requires the public body's signed response.

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



26 meetings.

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

28 (a) except as provided in Subsection (3), discussion of the character, professional
29 competence, or physical or mental health of an individual;

30 (b) strategy sessions to discuss collective bargaining;

31 (c) strategy sessions to discuss pending or reasonably imminent litigation;

32 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
33 including any form of a water right or water shares, if public discussion of the transaction
34 would:

35 (i) disclose the appraisal or estimated value of the property under consideration; or

36 (ii) prevent the public body from completing the transaction on the best possible terms;

37 (e) strategy sessions to discuss the sale of real property, including any form of a water
38 right or water shares, if:

39 (i) public discussion of the transaction would:

40 (A) disclose the appraisal or estimated value of the property under consideration; or

41 (B) prevent the public body from completing the transaction on the best possible terms;

42 (ii) the public body previously gave public notice that the property would be offered for
43 sale; and

44 (iii) the terms of the sale are publicly disclosed before the public body approves the
45 sale;

46 (f) discussion regarding deployment of security personnel, devices, or systems;

47 (g) investigative proceedings regarding allegations of criminal misconduct;

48 (h) as relates to the Independent Legislative Ethics Commission, conducting business
49 relating to the receipt or review of ethics complaints;

50 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
51 Subsection 52-4-204(1)(a)(iii)(C);

52 (j) as relates to the Independent Executive Branch Ethics Commission created in
53 Section 63A-14-202, conducting business relating to an ethics complaint;

54 (k) as relates to a county legislative body, discussing commercial information as
55 defined in Section 59-1-404;

56 (l) as relates to the Utah Higher Education Assistance Authority and its appointed

57 board of directors, discussing fiduciary or commercial information as defined in Section
58 [53B-12-102](#);

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

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

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

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

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

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

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

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

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

79 (q) the purpose of discussing a confidential draft of an audit report, concerning a matter
80 over which the public body has responsibility, that:

81 (i) is a protected record under Title 63G, Chapter 2, Government Records Access and
82 Management Act; and

83 (ii) requires a response signed by the public body.

84 (2) The following meetings shall be closed:

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

- 88 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 89 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
90 responses to the report described in Subsections 62A-16-301(2) and (4); or
- 91 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
92 and
- 93 (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose
94 of advising the Natural Resource Conservation Service of the United States Department of
95 Agriculture on a farm improvement project if the discussed information is protected
96 information under federal law.
- 97 (3) In a closed meeting, a public body may not:
- 98 (a) interview a person applying to fill an elected position;
- 99 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
100 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
101 or
- 102 (c) discuss the character, professional competence, or physical or mental health of the
103 person whose name was submitted for consideration to fill a midterm vacancy or temporary
104 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
105 Temporary Absence in Elected Office.