

Senator Curtis S. Bramble 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; and

▶ requires the public release of a recording of a closed meeting that was held for the purpose of discussing an audit report after the release of the audit report.

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

52-4-206, as last amended by Laws of Utah 2018, Chapter 425



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **52-4-205** is amended to read:

28 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
29 **meetings.**

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

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

33 (b) strategy sessions to discuss collective bargaining;

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

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

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

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

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

42 (i) public discussion of the transaction would:

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

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

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

47 (iii) the terms of the sale are publicly disclosed before the public body approves the
48 sale;

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

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

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

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

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

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

59 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
60 board of directors, discussing fiduciary or commercial information as defined in Section
61 53B-12-102;

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

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

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

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

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

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

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

79 (ii) the public body needs to review or discuss the information in order to properly
80 fulfill its role and responsibilities in the procurement process; [or]

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

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

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

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

87 (2) The following meetings shall be closed:

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

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

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

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

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

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

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

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

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

109 Section 2. Section 52-4-206 is amended to read:

110 **52-4-206. Record of closed meetings.**

111 (1) Except as provided under Subsection (6), if a public body closes a meeting under
112 Subsection 52-4-205(1), the public body:

113 (a) shall make a recording of the closed portion of the meeting; and

114 (b) may keep detailed written minutes that disclose the content of the closed portion of
115 the meeting.

116 (2) A recording of a closed meeting shall be complete and unedited from the
117 commencement of the closed meeting through adjournment of the closed meeting.

118 (3) The recording and any minutes of a closed meeting shall include:

- 119 (a) the date, time, and place of the meeting;
- 120 (b) the names of members present and absent; and
- 121 (c) the names of all others present except where the disclosure would infringe on the
122 confidentiality necessary to fulfill the original purpose of closing the meeting.
- 123 (4) Minutes or recordings of a closed meeting that are required to be retained
124 permanently shall be maintained in or converted to a format that meets long-term records
125 storage requirements.
- 126 (5) A recording, transcript, report, and written minutes of a closed meeting are
127 protected records under Title 63G, Chapter 2, Government Records Access and Management
128 Act, except that the records may be disclosed under a court order only as provided under
129 Section [52-4-304](#).
- 130 (6) If a public body closes a meeting exclusively for the purposes described under
131 Subsection [52-4-205](#)(1)(a), (1)(f), or (2):
- 132 (a) the person presiding shall sign a sworn statement affirming that the sole purpose for
133 closing the meeting was to discuss the purposes described under Subsection
134 [52-4-205](#)(1)(a),(1)(f), or (2); and
- 135 (b) the provisions of Subsection (1) of this section do not apply.
- 136 (7) A public body that closes a meeting under Subsection [52-4-205](#)(1)(q) shall release
137 the recording of the closed meeting and make the recording available to the public no later than
138 three business days after the public release of the audit report that was the subject of the closed
139 meeting.