

CHAPTER 147

GOVERNMENT - STATE

HOUSE BILL 96-1314

BY REPRESENTATIVES Kerns, DeGette, Friednash, Gordon, Hagedorn, June, Keller, Knox, Lamm, Leyba, Lyle, Mace, Morrison, Sullivant, and Tupa;
also SENATORS Johnson, Matsunaka, Pascoe, and L. Powers.

AN ACT

CONCERNING THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-6-402 (1) (b), (1) (d), (2) (d), the introductory portion to 24-6-402 (3) (a), 24-6-402 (3) (a) (II), (3) (a) (V), (3) (b), the introductory portion to 24-6-402 (4), and 24-6-402 (4) (c), (5), and (7), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-6-402 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-6-402. Meetings - open to public. (1) For the purposes of this section:

(b) "Meeting" means any kind of gathering, convened to discuss public business, in person, by telephone, ELECTRONICALLY, or by other means of communication.

(d) "State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO, or the general assembly, ~~the governing board of any state institution of higher education including the regents of the university of Colorado,~~ and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(2) (d) (I) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the ~~general~~ topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the ~~general~~ topic of the discussion at the executive session.

(3) (a) The members of a state public body subject to this part 4, upon THE ANNOUNCEMENT BY THE STATE PUBLIC BODY TO THE PUBLIC OF THE TOPIC FOR DISCUSSION IN THE EXECUTIVE SESSION AND THE affirmative vote of two-thirds of the entire membership of the body AFTER SUCH ANNOUNCEMENT, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in paragraph (b) of this subsection (3) or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session ~~which~~ THAT is not open to the public:

(II) Conferences with an attorney ~~for~~ REPRESENTING the state public body concerning disputes involving the public body that are the subject of pending or imminent court action. Governing boards of state institutions of higher education including the regents of the university of Colorado may also confer with an attorney concerning specific claims or grievances or for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of a governing board of a state institution of higher education including the regents of the university of Colorado is not sufficient to satisfy the requirements of this subsection (3).

(V) Determining positions relative to matters that may be subject to negotiations with employees or employee organizations; developing strategy for and receiving reports on the progress of SUCH negotiations; and instructing negotiators;

(b) All meetings held by members of a state public body subject to this part 4 to consider the appointment or employment of a public official or employee or the dismissal, discipline, promotion, demotion, or compensation of, or the investigation of charges or complaints against, a public official or employee shall be open to the public unless said applicant, official, or employee requests an executive session. Governing boards of institutions of higher education including the regents of the university of Colorado may, upon their own affirmative vote, hold executive sessions to consider the matters listed in this paragraph (b). Executive sessions may be held to review administrative actions regarding investigation of charges or complaints and attendant investigative reports against students where public disclosure could adversely affect the person or persons involved, unless the students have specifically consented to or requested the disclosure of such matters. An executive session may be held only at a regular or special meeting of the state public body and only upon the ANNOUNCEMENT BY THE PUBLIC BODY TO THE PUBLIC OF THE TOPIC FOR DISCUSSION IN THE EXECUTIVE SESSION AND THE affirmative vote of two-thirds of the entire membership of the body AFTER SUCH ANNOUNCEMENT.

(3.5) A SEARCH COMMITTEE OF A STATE PUBLIC BODY OR LOCAL PUBLIC BODY SHALL ESTABLISH JOB SEARCH GOALS, INCLUDING THE WRITING OF THE JOB DESCRIPTION, DEADLINES FOR APPLICATIONS, REQUIREMENTS FOR APPLICANTS, SELECTION PROCEDURES, AND THE TIME FRAME FOR APPOINTING OR EMPLOYING A CHIEF EXECUTIVE OFFICER OF AN AGENCY, AUTHORITY, INSTITUTION, OR OTHER ENTITY AT AN OPEN MEETING. A LIST OF ALL FINALISTS BEING CONSIDERED FOR A POSITION SHALL BE MADE PUBLIC BY THE SEARCH COMMITTEE NO LESS THAN FOURTEEN DAYS PRIOR TO THE FIRST INTERVIEW CONDUCTED FOR THE POSITION. RECORDS SUBMITTED BY OR ON BEHALF OF A FINALIST FOR SUCH POSITION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 24-72-204 (3) (a) (XI). AS USED IN THIS SUBSECTION (3.5), "FINALIST" SHALL HAVE THE SAME MEANING AS IN SECTION 24-72-204 (3) (a) (XI). NOTHING IN THIS SUBSECTION (3.5) SHALL BE CONSTRUED TO PROHIBIT A SEARCH COMMITTEE FROM HOLDING AN EXECUTIVE SESSION TO CONSIDER APPOINTMENT OR EMPLOYMENT MATTERS NOT DESCRIBED IN THIS SUBSECTION (3.5) AND OTHERWISE AUTHORIZED BY THIS SECTION.

(4) The members of a local public body subject to this part 4, upon the ANNOUNCEMENT BY THE LOCAL PUBLIC BODY TO THE PUBLIC OF THE TOPIC FOR DISCUSSION IN THE EXECUTIVE SESSION AND THE affirmative vote of two-thirds of the quorum present, AFTER SUCH ANNOUNCEMENT, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session ~~which~~ THAT is not open to the public:

(c) Matters required to be kept confidential by federal or state law or rules and regulations. THE LOCAL PUBLIC BODY SHALL ANNOUNCE THE SPECIFIC CITATION OF THE STATUTES OR RULES THAT ARE THE BASIS FOR SUCH CONFIDENTIALITY BEFORE HOLDING THE EXECUTIVE SESSION.

~~(5) Prior to the time the members of the public body convene in executive session, the chairman of the body shall announce the general topic of the executive session as enumerated in subsections (3) and (4) of this section.~~

(7) The secretary or clerk of each state public body OR LOCAL PUBLIC BODY shall maintain a list of persons who ~~request~~ WITHIN THE PREVIOUS TWO YEARS HAVE REQUESTED notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings, PROVIDED, HOWEVER, THAT UNINTENTIONAL FAILURE TO PROVIDE SUCH ADVANCE NOTICE WILL NOT NULLIFY ACTIONS TAKEN AT AN OTHERWISE PROPERLY PUBLISHED MEETING. THE PROVISIONS OF THIS SUBSECTION (7) SHALL NOT APPLY TO THE DAY-TO-DAY OVERSIGHT OF PROPERTY OR SUPERVISION OF EMPLOYEES BY COUNTY COMMISSIONERS, AS PROVIDED IN PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION.

SECTION 2. Effective date. This act shall take effect July 1, 1996.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Became Law Without Governor's Signature May 3, 1996