

CHAPTER 94

GOVERNMENT - STATE

HOUSE BILL 09-1124

BY REPRESENTATIVE(S) Liston, Gardner B., Massey, Tipton, Gardner C., Bradford, Frangas, Labuda, Lambert, Murray, Soper, Acree, Gerou, Green, Stephens, Todd, Waller;
also SENATOR(S) Veiga.

AN ACT

CONCERNING CERTAIN CONFERENCES WITH AN ATTORNEY REPRESENTING A STATE PUBLIC BODY THAT MAY BE HELD IN AN EXECUTIVE SESSION AT A MEETING OF THE STATE PUBLIC BODY.

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

SECTION 1. 24-6-402 (2) (d.5) (I) (B) and (3) (a) (II), Colorado Revised Statutes, are amended to read:

24-6-402. Meetings - open to public - definitions. (2) (d.5) (I) (B) If, in the opinion of the attorney who is representing ~~the state public body~~ A GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO, and is in attendance at an executive session that has been properly announced pursuant to paragraph (a) of subsection (3) of this section, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record or electronic recording shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording of said executive session discussion shall reflect that no further record or electronic recording was kept of the discussion based on the opinion of the attorney representing the ~~state public body~~ GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication, or the attorney representing the ~~state public body~~ GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, INCLUDING THE REGENTS OF THE UNIVERSITY OF COLORADO, may provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.

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

(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, including specific citation to the provision of this subsection (3) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, 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, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to subparagraph (1) of paragraph (d.5) of subsection (2) of this section, shall occur at any executive session that is not open to the public:

(II) Conferences with an attorney 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~~ STATE PUBLIC BODY is not sufficient to satisfy the requirements of this subsection (3).

SECTION 2. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to conferences with an attorney representing a state public body in an executive session held at a regular or special meeting of the state public body on or after the effective date of this act.

Approved: April 3, 2009