
SUBSTITUTE HOUSE BILL 1384

State of Washington

57th Legislature

2001 Regular Session

By House Committee on State Government (originally sponsored by Representatives Romero, McMorris, Simpson, Conway, Miloscia, Haigh, D. Schmidt, Clements, Delvin, Hunt, Lambert, Benson and Schindler; by request of State Auditor)

Read first time . Referred to Committee on .

1 AN ACT Relating to clarifying the circumstances under which the
2 governing body of a public agency may hold an executive session to
3 discuss litigation; amending RCW 42.30.110; and adding a new section to
4 chapter 42.30 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 42.30.110 and 1989 c 238 s 2 are each amended to read
7 as follows:

8 (1) Nothing contained in this chapter may be construed to prevent
9 a governing body from holding an executive session during a regular or
10 special meeting:

11 (a) To consider matters affecting national security;

12 (b) To consider the selection of a site or the acquisition of real
13 estate by lease or purchase when public knowledge regarding such
14 consideration would cause a likelihood of increased price;

15 (c) To consider the minimum price at which real estate will be
16 offered for sale or lease when public knowledge regarding such
17 consideration would cause a likelihood of decreased price. However,
18 final action selling or leasing public property shall be taken in a
19 meeting open to the public;

1 (d) To review negotiations on the performance of publicly bid
2 contracts when public knowledge regarding such consideration would
3 cause a likelihood of increased costs;

4 (e) To consider, in the case of an export trading company,
5 financial and commercial information supplied by private persons to the
6 export trading company;

7 (f) To receive and evaluate complaints or charges brought against
8 a public officer or employee. However, upon the request of such
9 officer or employee, a public hearing or a meeting open to the public
10 shall be conducted upon such complaint or charge;

11 (g) To evaluate the qualifications of an applicant for public
12 employment or to review the performance of a public employee. However,
13 subject to RCW 42.30.140(4), discussion by a governing body of
14 salaries, wages, and other conditions of employment to be generally
15 applied within the agency shall occur in a meeting open to the public,
16 and when a governing body elects to take final action hiring, setting
17 the salary of an individual employee or class of employees, or
18 discharging or disciplining an employee, that action shall be taken in
19 a meeting open to the public;

20 (h) To evaluate the qualifications of a candidate for appointment
21 to elective office. However, any interview of such candidate and final
22 action appointing a candidate to elective office shall be in a meeting
23 open to the public;

24 (i) To discuss with legal counsel representing the agency matters
25 relating to agency enforcement actions, or to discuss with legal
26 counsel representing the agency litigation or potential litigation to
27 which the agency, the governing body, or a member acting in an official
28 capacity is, or is likely to become, a party, when public knowledge
29 regarding the discussion is likely to result in an adverse legal or
30 financial consequence to the agency.

31 This subsection (1)(i) does not permit a governing body to hold an
32 executive session solely because an attorney representing the agency is
33 present. For purposes of this subsection (1)(i), "potential
34 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
35 concerning:

36 (A) Litigation that has been specifically threatened to which the
37 agency, the governing body, or a member acting in an official capacity
38 is, or is likely to become, a party;

1 (B) Litigation that the agency reasonably believes may be commenced
2 by or against the agency, the governing body, or a member acting in an
3 official capacity; or

4 (C) Litigation or legal risks of a proposed action or current
5 practice that the agency has identified when public discussion of the
6 litigation or legal risks is likely to result in an adverse legal or
7 financial consequence to the agency;

8 (j) To consider, in the case of the state library commission or its
9 advisory bodies, western library network prices, products, equipment,
10 and services, when such discussion would be likely to adversely affect
11 the network's ability to conduct business in a competitive economic
12 climate. However, final action on these matters shall be taken in a
13 meeting open to the public;

14 (k) To consider, in the case of the state investment board,
15 financial and commercial information when the information relates to
16 the investment of public trust or retirement funds and when public
17 knowledge regarding the discussion would result in loss to such funds
18 or in private loss to the providers of this information.

19 (2) Before convening in executive session, the presiding officer of
20 a governing body shall publicly announce the purpose for excluding the
21 public from the meeting place, and the time when the executive session
22 will be concluded. The executive session may be extended to a stated
23 later time by announcement of the presiding officer.

24 NEW SECTION. Sec. 2. A new section is added to chapter 42.30 RCW
25 to read as follows:

26 The state auditor's office may provide information, technical
27 assistance, and training on the provisions of this chapter.

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