

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2445

5 By: Representative Cowling
6
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE EXECUTIVE SESSIONS UNDER THE
10 ARKANSAS FREEDOM OF INFORMATION ACT FOR PUBLIC
11 GOVERNING BODIES WHEN DISCUSSING PENDING
12 LITIGATION THAT INVOLVES THE PUBLIC GOVERNING
13 BODY; TO AUTHORIZE THE PUBLIC BODY'S ATTORNEY TO
14 ATTEND THE EXECUTIVE SESSIONS; AND FOR OTHER
15 PURPOSES.
16

Subtitle

17 TO ALLOW EXECUTIVE SESSIONS UNDER THE
18 ARKANSAS FREEDOM OF INFORMATION ACT FOR
19 PUBLIC BODIES WHEN DISCUSSING PENDING
20 LITIGATION MATTERS AND TO ALLOW THE
21 ATTORNEYS TO ATTEND.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 25-19-106(c), concerning executive sessions
28 of governing bodies under the Arkansas Freedom of Information Act, is amended
29 to read as follows:

30 (c)(1)(A) Executive sessions will be permitted ~~only~~ for the purpose of
31 considering employment, appointment, promotion, demotion, disciplining, or
32 resignation of any public officer or employee.

33 (B) If a legal action or claim is pending in a district,
34 circuit, or probate court of the State of Arkansas, the Arkansas Court of
35 Appeals, the Arkansas Supreme Court, a federal district court, or a federal
36 appellate court, or a federal or state administrative agency or commission,



1 and if the governing body, board, commission, or other public body is a named
 2 party in the action or pending claim, then the governing body, board,
 3 commission, or other public body, that is either involved in or under the
 4 threat of litigation, may hold an executive session to provide an opportunity
 5 for the governing body to meet privately with the governing body's attorney.

6 (C) The specific purpose of the executive session shall be
 7 announced in public before going into executive session.

8 (2)(A) Only the person holding the top administrative position
 9 in the public agency, department, or office involved, the immediate
 10 supervisor of the employee involved, and the employee may be present at the
 11 executive session when so requested by the governing body, board, commission,
 12 or other public body holding the executive session under subdivision
 13 (c)(1)(A) of this section.

14 (B) Any person being interviewed for the top
 15 administrative position in the public agency, department, or office involved
 16 may be present at the executive session when so requested by the governing
 17 board, commission, or other public body holding the executive session under
 18 subdivision (c)(1)(A) of this section.

19 (C) If requested by the governing body, board, commission,
 20 or other public body holding the executive session, the attorney for the
 21 governing body may be present at an executive session called to discuss
 22 litigation, or the threat of litigation, under subdivision (c)(1)(B) of this
 23 section.

24 (3) Executive sessions must never be called for the purpose of
 25 defeating the reason or the spirit of this chapter.

26 (4) No resolution, ordinance, rule, contract, regulation, or
 27 motion considered or arrived at in executive session will be legal unless,
 28 following the executive session, the public body reconvenes in public session
 29 and presents and votes on the resolution, ordinance, rule, contract,
 30 regulation, or motion.

31 (5)(A) Boards and commissions of this state may meet in
 32 executive session for purposes of preparing examination materials and answers
 33 to examination materials which are administered to applicants for licensure
 34 from state agencies.

35 (B) Boards and commissions are excluded from this chapter
 36 for the administering of examinations to applicants for licensure.