

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1872

5 By: Representative Beaty Jr.
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For An Act To Be Entitled

8 AN ACT TO AMEND THE FREEDOM OF INFORMATION ACT OF
9 1967; TO PROVIDE THAT A MUNICIPALITY SHALL MAKE AN
10 AUDIO RECORDING OF CERTAIN EXECUTIVE SESSIONS; TO
11 PERMIT A MUNICIPALITY TO INVITE ITS ATTORNEY TO
12 ATTEND CERTAIN EXECUTIVE SESSIONS; TO PROVIDE FOR THE
13 FILING AND RETENTION OF THE AUDIO RECORDING; TO
14 REQUIRE THE MUNICIPALITY TO PAY CERTAIN LEGAL
15 EXPENSES OF A PLAINTIFF WHO SUCCESSFULLY ARGUES THAT
16 DISCUSSION DURING THE EXECUTIVE SESSION WAS IMPROPER;
17 AND FOR OTHER PURPOSES.
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Subtitle

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21 TO REGULATE THE AUDIO RECORDING AND
22 PERMITTED ATTENDEES AT CERTAIN EXECUTIVE
23 SESSIONS HELD BY MUNICIPALITIES; AND TO
24 REQUIRE MUNICIPALITIES TO REIMBURSE
25 PLAINTIFFS UNDER CERTAIN CONDITIONS.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code § 25-19-106(c)(1) and (2), concerning open
31 public meetings under the Freedom of Information Act of 1967, are amended to
32 read as follows:

33 (c)(1)(A) Except as provided under subdivision (c)(6) of this section,
34 an executive session will be permitted only for the purpose of considering
35 the employment, appointment, promotion, demotion, disciplining, or
36 resignation of any public officer or employee.



1 (B) The specific purpose of the executive session shall be
2 announced in public before going into executive session.

3 (2)(A) ~~Only~~ If an executive session is called under subdivision
4 (c)(1)(A) of this section, only the following people shall be permitted to
5 attend when invited by the governing body holding the executive session:

6 (i) The person holding the top administrative
7 position in the public agency, department, or office involved, the immediate
8 supervisor of the employee involved, and the employee may be present at the
9 executive session when so requested by the governing body, board, commission,
10 or other public body holding the executive session; and

11 ~~(B)(ii)~~ Any person being interviewed for the top
12 administrative position in the public agency, department, or office involved
13 may be present at the executive session when so requested by the governing
14 board, commission, or other public body holding the executive session.

15 (B) If a municipality holds an executive session under
16 subdivision (c)(1)(A) of this section, the governing body holding the
17 executive session:

18 (i) May, in addition to the invitees under
19 subdivision (c)(2)(A) of this section, invite its attorney to attend and
20 participate in the executive session;

21 (ii)(a) Shall make an audio recording of the entire
22 executive session and promptly file the audio recording with the city clerk,
23 who shall retain it for at least one (1) year from the date of the executive
24 session.

25 (b) The audio recording of the executive
26 session held under subdivision (c)(1)(A) of this section is exempt from
27 disclosure under this chapter; and

28 (iii) Shall, at the conclusion of the executive
29 session, give a public oral summary of the discussion during the executive
30 session and record the oral summary in the minutes of the meeting.

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32 SECTION 2. Arkansas Code § 25-19-107, concerning the right to file
33 suit in circuit court to appeal an alleged denial of rights under the Freedom
34 of Information Act of 1967, is amended to add an additional subsection to
35 read as follows:

36 (f) If a citizen files suit in circuit court under this section

1 claiming that improper discussion occurred during an executive session called
2 under § 25-19-106(c)(1), then:

3 (1) The audio recording of the executive session required under
4 § 25-19-106 shall be made available to the circuit court for an in camera
5 review; and

6 (2) If the circuit court determines that the discussion during
7 the executive session was improper, the defendant shall pay the plaintiff's
8 reasonable attorney's fees or other litigation expenses that the plaintiff
9 reasonably incurred.

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