

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H3/9/21 H3/30/21
A Bill

HOUSE BILL 1280

By: Representative Haak
By: Senator L. Eads

For An Act To Be Entitled

AN ACT TO AMEND THE FREEDOM OF INFORMATION ACT OF 1967 TO PERMIT AN EXECUTIVE SESSION FOR CONSIDERING CERTAIN ECONOMIC DEVELOPMENT PROJECTS; TO PERMIT A GOVERNING BODY'S ATTORNEY TO ATTEND CERTAIN EXECUTIVE SESSIONS; AND FOR OTHER PURPOSES.

Subtitle

TO PERMIT AN EXECUTIVE SESSION UNDER THE FREEDOM OF INFORMATION ACT OF 1967 TO CONSIDER CERTAIN ECONOMIC DEVELOPMENT PROJECTS; AND TO PERMIT A GOVERNING BODY'S ATTORNEY TO ATTEND CERTAIN EXECUTIVE SESSIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 25-19-106(c)(1) and (2), concerning open public meetings under the Freedom of Information Act of 1967, are amended to read as follows:

(c)(1)(A) Except as provided under subdivision (c)(6) of this section, an executive session will be permitted only for the purpose of:

(i) ~~considering~~ Considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee; or

(ii) Consideration of an economic development project under the Local Job Creation, Job Expansion, and Economic Development



Act of 2017, § 14-176-101 et seq. if:

(a) A public discussion would give an advantage to competitors or bidders; or

(b) The discussion concerns records maintained by an economic development service provider for a municipality or county related to an economic development project; or

(c) The discussion concerns records maintained by the municipality or county related to an economic development project's:

(1) Planning;

(2) Site location;

(3) Expansion;

(4) Operations; or

(5) Product development and marketing.

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

(ii) If an executive session is called under subdivision (c)(1)(A)(ii), notice of the intent to call an executive session to discuss an economic development project and the specific purpose of the executive session shall be published with the notice of the open public meeting.

(2)(A) Only If an executive session is called under subdivision (c)(1)(A)(i) of this section, only the following people shall be permitted to attend when invited by the governing body board, commission, or other public body holding the executive session:

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

(B) (ii) Any person being interviewed for the top administrative position in the public agency, department, or office involved may be present at the executive session when so requested by the governing

~~board, commission, or other public body holding the executive session.~~

(B) If an executive session is called under subdivision (c)(1)(A)(ii) of this section, the governing body holding the executive session:

(i) May invite its attorney to attend and participate in the executive session;

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

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

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

(b) The oral summary required under subdivision (c)(2)(B)(iii)(a) may exclude the information under subdivision (c)(1)(A)(ii)(c).

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

(f) If a citizen files suit in circuit court under this section claiming that improper discussion occurred during an executive session called for the stated purpose of considering an economic development project under the Local Job Creation, Job Expansion, and Economic Development Act of 2017, § 14-176-101 et seq., then:

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

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

/s/Haak