

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: H4/8/21
A Bill

HOUSE BILL 1872

By: Representative Beaty Jr.

For An Act To Be Entitled

AN ACT TO AMEND THE FREEDOM OF INFORMATION ACT OF 1967; TO PROVIDE THAT A MUNICIPALITY SHALL MAKE AN AUDIO RECORDING OF CERTAIN EXECUTIVE SESSIONS; TO *PROVIDE FOR THE* FILING AND RETENTION OF THE AUDIO RECORDING; TO REQUIRE THE MUNICIPALITY TO PAY CERTAIN LEGAL EXPENSES OF A PLAINTIFF WHO SUCCESSFULLY ARGUES THAT DISCUSSION DURING THE EXECUTIVE SESSION WAS IMPROPER; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE AUDIO RECORDING AT CERTAIN EXECUTIVE SESSIONS HELD BY MUNICIPALITIES; AND TO REQUIRE MUNICIPALITIES TO REIMBURSE PLAINTIFFS UNDER CERTAIN CONDITIONS.

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 considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

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



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

(i) 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 a municipality holds an executive session under subdivision (c)(1)(A) of this section, the governing body holding the executive session shall:

(i)(a) 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 three (3) years from the date of the executive session.

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

(ii) 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; and

(iii)(a) Within thirty (30) calendar days of the executive session, prepare a written transcript of the executive session.

(b) The written transcript:

(1) Shall be redacted as necessary to shield from disclosure any information that qualifies for an exemption under either § 25-19-105(b) or a law that specifically provides for the nondisclosure of certain information; and

(2) Is subject to disclosure in response to a request for public records.

(c) The municipality shall publish the written transcript in a local newspaper within sixty (60) calendar days of the executive session.

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 under § 25-19-106(c)(1), 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/Beaty Jr.