

1 State of Arkansas As Engrossed: S2/20/25 S2/26/25

2 95th General Assembly

# A Bill

3 Regular Session, 2025

SENATE BILL 227

4

5 By: Senators C. Tucker, B. Davis, J. Boyd, C. Penzo, G. Stubblefield

6 By: Representative Eubanks

7

8

## For An Act To Be Entitled

9

AN ACT TO AMEND THE FREEDOM OF INFORMATION ACT OF

10

1967; TO AMEND THE PROVISIONS OF THE FREEDOM OF

11

INFORMATION ACT OF 1967 CONCERNING PUBLIC MEETINGS;

12

AND FOR OTHER PURPOSES.

13

14

15

## Subtitle

16

TO AMEND THE FREEDOM OF INFORMATION ACT

17

OF 1967; AND TO AMEND THE PROVISIONS OF

18

THE FREEDOM OF INFORMATION ACT OF 1967

19

CONCERNING PUBLIC MEETINGS.

20

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

22

23

*SECTION 1. Arkansas Code § 25-19-103(6) – (9), concerning the definitions used under the Freedom of Information Act of 1967, are amended to read as follows:*

24

*(6) ~~"Public meetings"~~ "Public entity" means ~~the meetings of any:~~*

25

*(i) A bureau, commission, or agency of the state; ~~or~~*

26

*~~any~~*

27

*(ii) A political subdivision of the state, including*

28

*municipalities, and counties, and boards of education; and ~~all~~*

29

*(iii) All other boards, bureaus, commissions, or*

30

*organizations in the State of Arkansas, except grand juries, supported wholly*

31

*or in part by public funds or expending public funds;*

32

*(7)(A) "Public meeting" means the formal gathering together of a*

33

*governing body, whether in person or through electronic or telephonic means,*

34

*of a public entity.*



1 (B) "Public meeting" does not include:

2 (i) The gathering together, whether in person or  
3 through electronic or telephonic means, of the members of a governing body to  
4 discuss the settlement of a cause of action in a court-ordered alternative  
5 dispute resolution process, including without limitation a settlement  
6 conference or mediation; and

7 (ii) A meeting of the Child Maltreatment  
8 Investigations Oversight Committee under § 10-3-3201 et seq.;

9 ~~(7)(A)~~(8)(A) "Public records" means writings, recorded sounds,  
10 films, tapes, electronic or computer-based information, or data compilations  
11 in any medium required by law to be kept or otherwise kept and that  
12 constitute a record of the performance or lack of performance of official  
13 functions that are or should be carried out by a public official or employee,  
14 a governmental agency, or any other agency or improvement district that is  
15 wholly or partially supported by public funds or expending public funds. All  
16 records maintained in public offices or by public employees within the scope  
17 of their employment shall be presumed to be public records.

18 (B) "Public records" does not mean software acquired by  
19 purchase, lease, or license;

20 ~~(8)(9)~~ "Public water system" means all facilities composing a  
21 system for the collection, treatment, and delivery of drinking water to the  
22 general public, including without limitation reservoirs, pipelines,  
23 reclamation facilities, processing facilities, distribution facilities, and  
24 regional water distribution districts under The Regional Water Distribution  
25 District Act, § 14-116-101 et seq.; and

26 ~~(9)(10)~~ "Vulnerability assessment" means an assessment of the  
27 vulnerability of a public water system to a terrorist attack or other  
28 intentional acts intended to substantially disrupt the ability of the public  
29 water system to provide a safe and reliable supply of drinking water as  
30 required by the Public Health Security and Bioterrorism Preparedness and  
31 Response Act of 2002, Pub. L. No. 107-188.

32  
33 SECTION 2. Arkansas Code § 25-19-103, concerning the definitions used  
34 under the Freedom of Information Act of 1967, is amended to add additional  
35 subdivisions to read as follows:

36 (11) "Cybersecurity" means the measures taken to achieve

1 protection against the criminal or unauthorized use of electronic data; and

2 (12) "Poll" means:

3 (A) A series of communications:

4 (i) Between:

5 (a) One (1) or more persons paid by a public  
6 entity or agents or employees of that public entity; and

7 (b) One (1) or more members of the governing  
8 body of that public entity;

9 (ii) Concerning any matter on which official action  
10 will foreseeably be taken by the governing body;

11 (iii) To determine:

12 (a) How the member of the governing body  
13 intends to vote; or

14 (b) Whether the member of the governing body  
15 supports or opposes certain proposed action by the governing body; and

16 (iv) For the purpose of exercising a responsibility,  
17 authority, power, or duty of the governing body; and

18 (13) "Remotely" means through electronic means, including  
19 without limitation by telephone, video conference, or video broadcast.

20  
21 SECTION 3. Arkansas Code § 25-19-106 is amended to read as follows:

22 25-19-106. ~~Open public~~ Public meetings – Requirements, exceptions, and  
23 penalties.

24 ~~(a) Except as otherwise specifically provided by law, all meetings,~~  
25 ~~formal or informal, special or regular, of the governing bodies of all~~  
26 ~~municipalities, counties, townships, and school districts and all boards,~~  
27 ~~bureaus, commissions, or organizations of the State of Arkansas, except grand~~  
28 ~~juries, supported wholly or in part by public funds or expending public~~  
29 ~~funds, shall be public meetings. To lawfully hold a public meeting, a~~  
30 ~~governing body shall ensure that:~~

31 (1) Prior notice of the public meeting has been provided as  
32 required under subsection (b) of this section;

33 (2) Any executive session held within a public meeting is  
34 conducted as required under subsection (c) of this section;

35 (3) The public meeting is recorded as provided under subsection  
36 (d) of this section;

1           (4) The public is permitted reasonable access to the public  
2 meeting as provided under subsection (e) of this section; and

3           (5) The public meeting is conducted in a manner that allows the  
4 public to attend and hear the governing body's meaningful discussion and  
5 deliberation, if any, on official business.

6           (b)(1)(A) The time and place of each regular public meeting shall be  
7 furnished to anyone who requests the information.

8           (B) Unless another notification timeline for the public  
9 meeting of a governing body is specified by law, the notification required  
10 under subdivision (b)(1)(A) of this section shall be made at least three (3)  
11 days before the public meeting takes place in order that the public may have  
12 representatives at the public meeting.

13           (2)(A) In the event of an emergency or special meetings public  
14 meeting, the person calling the public meeting shall notify the  
15 representatives of the newspapers, radio stations, and television stations,  
16 if any, located in the county in which the public meeting is to be held and  
17 any news media located elsewhere that cover regular public meetings of the  
18 governing body and that have requested to be so notified of emergency or  
19 special public meetings of the time, place, and date of the public meeting.

20           (B) ~~Notification~~ The notification required under  
21 subdivision (b)(2)(A) of this section shall be made at least two (2) hours  
22 before the public meeting takes place in order that the public ~~shall~~ may have  
23 representatives at the public meeting.

24           (3) In addition to the requirements under subdivisions (b)(1)  
25 and (2) of this section:

26           (A) The time, place, and date of a public meeting shall be  
27 published online if the governing body or the public entity it governs  
28 maintains a website or social media page; and

29           (B)(i) The governing body shall furnish the most current  
30 agenda for a public meeting upon request and shall publish the most current  
31 agenda for a public meeting online if the governing body or the public entity  
32 it governs maintains a website or social media page at least three (3) days  
33 before a regular public meeting and at least two (2) hours before an  
34 emergency or special public meeting.

35           (ii) The requirement of subdivision (b)(3)(B)(i) of  
36 this section does not preclude a governing body from adding items to an

1 agenda after the agenda has been furnished or posted pursuant to subdivision  
2 (b)(3)(B)(i) of this section.

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

5 (A)(i) ~~considering~~ Considering the employment,  
6 appointment, promotion, demotion, disciplining, or resignation of any public  
7 officer or employee.

8 ~~(B) The specific purpose of the executive session~~  
9 ~~shall be announced in public before~~ (ii) Before going into an executive  
10 session called under subdivision (c)(1)(A)(i) of this section, a governing  
11 body shall state publicly which specific purpose listed in subdivision  
12 (c)(1)(A)(i) of this section is the basis for the executive session.

13 ~~(2)(A)(iii)~~ Only the person holding the top  
14 administrative position in the public agency, department, or office involved,  
15 the immediate supervisor of the employee involved, and the employee may be  
16 present at the executive session when so requested by the governing body,  
17 ~~board, commission, or other public body~~ holding the executive session.

18 ~~(B)(iv)~~ Any person being interviewed for the top  
19 administrative position in the public agency, department, or office involved  
20 may be present at the executive session when so requested by the governing  
21 ~~board, commission, or other public body~~ holding the executive session;

22 (B) Discussing how a governing body will respond to an  
23 attack on or other breach of the cybersecurity of the public entity governed  
24 by the governing body;

25 (C)(i) A board or commission of the state preparing  
26 examination materials and answers to examination materials that are  
27 administered to applicants for licensure from a state agency.

28 (ii) Boards and commissions are excluded from this  
29 chapter for the administering of examinations to applicants for licensure;  
30 and

31 (D) A governing body considering, evaluating, or discussing  
32 matters pertaining to a public water system's security or municipally owned  
33 utility system's security as described in § 25-19-105(b)(17).

34 ~~(3)(2)~~ Executive sessions must never be called for the purpose  
35 of defeating the reason or the spirit of this chapter.

36 ~~(4) No resolution, ordinance, rule, contract, regulation, or~~

1 ~~motion considered or arrived at in executive session will be legal unless,~~  
2 ~~following the executive session, the public body reconvenes in public session~~  
3 ~~and presents and votes on the resolution, ordinance, rule, contract,~~  
4 ~~regulation, or motion.~~

5 ~~(5)(A) Boards and commissions of this state may meet in~~  
6 ~~executive session for purposes of preparing examination materials and answers~~  
7 ~~to examination materials that are administered to applicants for licensure~~  
8 ~~from state agencies.~~

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

11 ~~(6) Subject to the provisions of subdivision (c)(4) of this~~  
12 ~~section, a public agency may meet in executive session for the purpose of~~  
13 ~~considering, evaluating, or discussing matters pertaining to public water~~  
14 ~~system security or municipally owned utility system security as described in~~  
15 ~~§ 25-19-105(b)(17).~~

16 ~~(7) An executive session held by the Child Maltreatment~~  
17 ~~Investigations Oversight Committee under § 10-3-3201 et seq. is exempt from~~  
18 ~~this section.~~

19 (d)(1) ~~All officially scheduled, special, and called open public~~  
20 ~~meetings~~ Except as provided under subdivision (d)(4) of this section, a  
21 public meeting shall be recorded in a manner that allows for the capture of  
22 sound, including without limitation:

23 (A) A sound-only recording;

24 (B) A video recording with sound and picture; or

25 (C) A digital or analog broadcast capable of being

26 recorded.

27 (2) A recording of ~~an open~~ a public meeting shall be maintained  
28 by a *public entity* for a minimum of one (1) year from the date of the ~~open~~  
29 public meeting.

30 (3) The recording shall be maintained in a format that may be  
31 reproduced upon a request under this chapter.

32 (4) ~~Subdivisions~~ Subdivision (d)(1) ~~and (2)~~ of this section ~~do~~  
33 does not apply to:

34 (A) Executive sessions; or

35 (B) Volunteer fire departments.

36 ~~(5) Cities of the second class and incorporated towns are exempt~~

1 ~~from subdivisions (d)(1) and (2) of this section until July 1, 2020.~~

2 (e)(1) A governing body shall ensure that Arkansas residents have  
3 reasonable access to attend a public meeting, including through electronic  
4 means, if such electronic means are available for use to the governing body.

5 ~~(2)(A) If the Governor declares a disaster emergency under the~~  
6 ~~Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., a public entity~~  
7 ~~may assemble, gather, meet, and conduct an open public meeting through~~  
8 ~~electronic means, including without limitation by:~~

9 ~~(A) Telephone;~~

10 ~~(B) Video conference; or~~

11 ~~(C) Video broadcast.~~ Except as provided under subdivisions  
12 (e)(3) and (4) of this section, a member of a governing body shall be  
13 physically present at a public meeting to be counted for purposes of  
14 establishing a quorum or to vote.

15 (B) A quorum of a governing body shall be physically  
16 present at a public meeting for the governing body to enter an executive  
17 session.

18 ~~(2)(3)(A) If an open public meeting is held under subdivision~~  
19 ~~(e)(1) of this section: A governing body may adopt a policy, resolution, or~~  
20 ~~ordinance permitting a member of the governing body who is unable to be~~  
21 ~~physically present at a public meeting to attend the public meeting remotely.~~

22 ~~(A) The public may attend the open public meeting using~~  
23 ~~electronic means; and~~

24 ~~(B)(i) Notice of the method the public may attend the open~~  
25 ~~public meeting shall be published with the notice of the open public meeting.~~  
26 The governing body may count a member of the governing body who attends a  
27 public meeting remotely for the purpose of establishing a quorum no more than  
28 three (3) times per calendar year.

29 (ii) A member of a governing body attending remotely  
30 who is used to establish a quorum under subdivision (e)(3)(B)(i) of this  
31 section shall not be counted to determine if the governing body may enter  
32 executive session under subdivision (e)(2)(B) of this section.

33 (C) This subdivision (e)(3) does not apply to public  
34 meetings of quorum courts or city councils.

35 ~~(3)(4) Physical presence of the public or of an individual~~  
36 ~~member of the public entity at the open public meeting is not required under~~

1 ~~this subsection.~~ If the Governor declares a disaster emergency under the  
2 Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., a governing  
3 body may conduct a public meeting remotely.

4 ~~(4)(5) The open public meeting shall be recorded in the format~~  
5 ~~in which it is conducted, including without limitation:~~

6 ~~(A) A sound only recording;~~

7 ~~(B) A video recording with sound and picture; or~~

8 ~~(C) A digital or analog broadcast capable of being~~

9 ~~recorded.~~ For a member of a governing body who attends a meeting remotely to  
10 be counted for a quorum or to vote, the method used to permit the member of  
11 the governing body to attend remotely shall:

12 (A) Provide a method for the president or the secretary of  
13 the governing body to verify the identity of the member of the governing body  
14 attending remotely;

15 (B) Allow members of the governing body who are physically  
16 present at the public meeting and members of the public at all times to:

17 (i) Hear the member of the governing body attending  
18 remotely;

19 (ii) Observe a vote of a member of the governing  
20 body attending remotely; and

21 (iii) Know the identity of the member of the  
22 governing body attending remotely when that member is speaking or voting; and

23 (C) Allow a member of the governing body attending  
24 remotely to hear the members of the governing body physically present at the  
25 public meeting and any public comment.

26 ~~(5)(6) A public entity shall maintain the records of an open~~  
27 ~~public meeting held under this subsection for a minimum of one (1) year from~~  
28 ~~the date of the open public meeting.~~ A member of a governing body who attends  
29 a public meeting remotely shall not:

30 (A) Attend an executive session remotely;

31 (B)(i) Vote on an issue that is the subject of an  
32 executive session.

33 (ii) The inability of the member of a governing body  
34 to vote on an item discussed in executive session shall be treated the same  
35 as if the member of the governing body were not present for the executive  
36 session or the public meeting; or



1 (C) Receive mileage or per diem for attending the public  
2 meeting.

3 (7) If a public meeting is held remotely with no members of the  
4 governing body physically present at the public meeting:

5 (A) The governing body shall enable members of the public  
6 to attend the public meeting by the same means that the public meeting is  
7 held for the members of the governing body; and

8 (B) Notice of the method the public may attend the public  
9 meeting shall be published with the notice of the public meeting.

10 (8) The public meeting shall be recorded in the format in which  
11 it is conducted, including without limitation:

12 (A) A sound-only recording;

13 (B) A video recording with sound and picture; and

14 (C) A digital or analog broadcast capable of being  
15 recorded.

16 (9) A public entity shall maintain the records of a public  
17 meeting held under this subsection for a minimum of one (1) year from the  
18 date of the public meeting.

19 (f) A member of a governing body shall not participate in a  
20 communication, whether oral, written, electronic, or otherwise, that:

21 (1) He or she knows or reasonably should know is a poll; or

22 (2)(A) Occurs outside of a public meeting with another member of  
23 the governing body about a matter on which official action will foreseeably  
24 be taken by the governing body.

25 (B) It is not a violation of subdivision (f)(2)(A) of this  
26 section if a member of a governing body or employee or agent of a public  
27 entity communicates information that is background or otherwise non-  
28 decisional in nature to one (1) or more members of the same governing body.

29 (g) Two (2) or more employees of a governing body may communicate for  
30 the purpose of exercising a responsibility, authority, power, or duty of an  
31 employee without notice and an open meeting under this section.

32 (h)(1) If a circuit court finds under § 25-19-107 that a governing  
33 body violated this section, the circuit court may invalidate any action the  
34 governing body took at the unlawful public meeting.

35 (2) If a circuit court finds under § 25-19-107 that a member of  
36 a governing body engaged in a communication prohibited under subsection (f)

1 of this section, the circuit court may invalidate any action the governing  
2 body took that is the direct or indirect result of the prohibited  
3 communication.

4 (3) An action taken in an executive session is void unless the  
5 governing body conducts a public vote on the matter discussed in the  
6 executive session at the conclusion of the executive session.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

*/s/C. Tucker*