

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

SENATE BILL 227

5 By: Senator C. Tucker  
6 By: Representative Eubanks  
7

## For An Act To Be Entitled

8  
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

## Subtitle

15  
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), concerning the definitions  
24 used under the Freedom of Information Act of 1967, is amended to read as  
25 follows:

26 (6)(A) “Public meetings meeting” means the meetings of any  
27 formal gathering together of a governing body, whether in person or through  
28 electronic or telephonic means, of any of the following entities to discuss  
29 or vote on public business:

30 (i) A bureau, commission, or agency of the state; ~~or~~  
31 ~~any~~

32 (ii) A political subdivision of the state, including  
33 municipalities, ~~and~~ counties, and boards of education; ~~and all~~

34 (iii) All other boards, bureaus, commissions, or  
35 organizations in the State of Arkansas, except grand juries, supported wholly  
36 or in part by public funds or expending public funds.



1                   (B) "Public meeting" does not include the gathering  
 2 together, whether in person or through electronic or telephonic means, of the  
 3 members of a governing body to discuss the settlement of a cause of action in  
 4 a court-ordered alternative dispute resolution process;

5  
 6           SECTION 2. Arkansas Code § 25-19-103, concerning the definitions used  
 7 under the Freedom of Information Act of 1967, is amended to add additional  
 8 subdivisions to read as follows:

9                   (10) "Cybersecurity" means the measures taken to achieve  
 10 protection against the criminal or unauthorized use of electronic data; and

11                   (11) "Poll" means a series of communications between an agent,  
 12 employee, or person paid by a governing body and one (1) or more members of  
 13 the governing body to determine:

14                   (A) How the member of the governing body intends to vote;  
 15 or

16                   (B) Whether the member of the governing body supports or  
 17 opposes certain proposed action by the governing body.

18  
 19           SECTION 3. Arkansas Code § 25-19-106 is amended to read as follows:

20           25-19-106. ~~Open public~~ Public meetings – Requirements, exceptions, and  
 21 penalties.

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

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

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

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

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

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

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

6           (2)(A) In the event of an emergency or special ~~meetings~~ public  
 7 meeting, the person calling the public meeting shall notify the  
 8 representatives of the newspapers, radio stations, and television stations,  
 9 if any, located in the county in which the public meeting is to be held and  
 10 any news media located elsewhere that cover regular public meetings of the  
 11 governing body and that have requested to be so notified of emergency or  
 12 special public meetings of the time, place, and date of the public meeting.

13           (B) ~~Notification~~ The notification required under  
 14 subdivision (b)(2)(A) of this section shall be made at least two (2) hours  
 15 before the public meeting takes place in order that the public shall have  
 16 representatives at the public meeting.

17           (3) In addition to the requirements under subdivisions (b)(1)  
 18 and (2) of this section, the time, place, and date of a public meeting shall  
 19 be published online if the governing body or the entity it governs maintains  
 20 a website or social media page.

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

23           (A)(i) ~~considering~~ Considering the employment,  
 24 appointment, promotion, demotion, disciplining, or resignation of any public  
 25 officer or employee.

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

31           (2)(A)(iii) Only the person holding the top  
 32 administrative position in the ~~public agency, department, or office~~ governing  
 33 body involved, the immediate supervisor of the employee involved, and the  
 34 employee may be present at the executive session when so requested by the  
 35 governing body, ~~board, commission, or other public body~~ holding the executive  
 36 session.

1                   ~~(B)(iv)~~ Any person being interviewed for the top  
 2 administrative position in the ~~public agency, department, or office~~ governing  
 3 body involved may be present at the executive session when so requested by  
 4 the governing ~~board, commission, or other public~~ body holding the executive  
 5 session-;

6                   (B) Discussing how a governing body will respond to the  
 7 terms of a demand affecting cybersecurity;

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

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

13                   (D) Subject to subdivision (h)(3) of this section, a  
 14 governing body considering, evaluating, or discussing matters pertaining to a  
 15 public water system's security or municipally owned utility system's security  
 16 as described in § 25-19-105(b)(17); and

17                   (E) Holding an executive session of the Child Maltreatment  
 18 Investigations Oversight Committee under § 10-3-3201 et seq.

19                   ~~(3)(2)~~ Executive sessions must never be called for the purpose  
 20 of defeating the reason or the spirit of this chapter.

21                   ~~(4) No resolution, ordinance, rule, contract, regulation, or~~  
 22 ~~motion considered or arrived at in executive session will be legal unless,~~  
 23 ~~following the executive session, the public body reconvenes in public session~~  
 24 ~~and presents and votes on the resolution, ordinance, rule, contract,~~  
 25 ~~regulation, or motion.~~

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

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

32                   ~~(6) Subject to the provisions of subdivision (c)(4) of this~~  
 33 ~~section, a public agency may meet in executive session for the purpose of~~  
 34 ~~considering, evaluating, or discussing matters pertaining to public water~~  
 35 ~~system security or municipally owned utility system security as described in~~  
 36 ~~§ 25-19-105(b)(17).~~

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

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

8                   (A) A sound-only recording;

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

10                  (C) A digital or analog broadcast capable of being  
 11 recorded.

12           (2) A recording of ~~an open a~~ public meeting shall be maintained  
 13 by a ~~public entity~~ governing body for a minimum of one (1) year from the date  
 14 of the ~~open~~ public meeting.

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

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

19                   (A) Executive sessions; or

20                   (B) Volunteer fire departments.

21           ~~(5) Cities of the second class and incorporated towns are exempt~~  
 22 ~~from subdivisions (d)(1) and (2) of this section until July 1, 2020.~~

23           (e)(1) A governing body shall ensure that Arkansas residents have  
 24 reasonable access to attend a public meeting.

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

29                   (A) Telephone;

30                   (B) Video conference; ~~or~~ and

31                   (C) Video broadcast.

32           ~~(2)(3)~~ (3) If ~~an open a~~ public meeting is held under subdivision  
 33 ~~(e)(1)(e)(2)~~ of this section:

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

36                   (B) Notice of the method the public may attend the ~~open~~

1 public meeting shall be published with the notice of the ~~open~~ public meeting.

2 ~~(3)~~(4) Physical presence of the public or of an individual  
3 member of the ~~public entity~~ governing body at the ~~open~~ public meeting is not  
4 required under this subsection.

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

7 (A) A sound-only recording;

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

9 (C) A digital or analog broadcast capable of being  
10 recorded.

11 ~~(5)~~(6) A ~~public entity~~ governing body shall maintain the records  
12 of ~~an open~~ a public meeting held under this subsection for a minimum of one  
13 (1) year from the date of the ~~open~~ public meeting.

14 (f) A member of a governing body shall not participate in a  
15 communication, whether oral or written, that:

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

17 (2) Occurs outside of a public meeting with another member of  
18 the governing body about a matter on which official action will foreseeably  
19 be taken by the governing body.

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

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

26 (2) If a circuit court finds under § 25-19-107 that a member of  
27 a governing body engaged in a communication prohibited under subsection (f)  
28 of this section, the circuit court shall invalidate any action the governing  
29 body took that is the direct or indirect result of the prohibited  
30 communication.

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

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