

Changes to Open Meeting Laws ~ Part 2: Executive Sessions

New sections of code on executive sessions are underlined:

67-2344. WRITTEN MINUTES OF MEETINGS. (1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes, and upon the request of a member, the vote of each member, by name.

(2) Minutes pertaining to executive sessions. Minutes pertaining to an executive session shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.

67-2345. EXECUTIVE SESSIONS – WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency,

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code;

(i) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or

(j) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

To summarize:

- Specific reference to code section, recorded roll call vote, 2/3 majority to enter executive session;
- Minutes identify purpose and topic;
- Session may be held to discuss qualities of individuals (prospective hires) but not staffing in general;
- Session can only be held for specific statutory reasons and topic cannot be changed during executive session.

July 1, 2009 ~ State of Idaho Code