

IN THE SENATE

SENATE BILL NO. 1335

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO EXECUTIVE SESSIONS UNDER THE OPEN MEETINGS LAW; AMENDING SEC-
2 TION 74-206, IDAHO CODE, TO REVISE CONDITIONS WHEN AN EXECUTIVE SESSION
3 IS AUTHORIZED REGARDING THE ACQUISITION, SALE OR LEASE OF AN INTEREST
4 IN REAL PROPERTY BY A PUBLIC AGENCY AND TO PROVIDE A CORRECT CODE REFER-
5 ENCE.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 74-206, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 74-206. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) An executive ses-
11 sion at which members of the public are excluded may be held, but only for the
12 purposes and only in the manner set forth in this section. The motion to go
13 into executive session shall identify the specific subsections of this sec-
14 tion that authorize the executive session. There shall be a roll call vote on
15 the motion and the vote shall be recorded in the minutes. An executive ses-
16 sion shall be authorized by a two-thirds (2/3) vote of the governing body. An
17 executive session may be held:

18 (a) To consider hiring a public officer, employee, staff member or in-
19 dividual agent, wherein the respective qualities of individuals are to
20 be evaluated in order to fill a particular vacancy or need. This para-
21 graph does not apply to filling a vacancy in an elective office or delib-
22 erations about staffing needs in general;

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

26 (c) To ~~acquire~~ compose offers or to consider counteroffers when ac-
27 quiring an interest in real property which that is not owned by a public
28 agency or to consider an offer or counteroffer regarding the sale or
29 lease of an interest in real property owned by a public agency or to
30 communicate with the real estate agent or broker of the public entity to
31 obtain advice regarding the sale or lease or possible sale or lease of an
32 interest in real property owned by a public agency;

33 (d) To consider records that are exempt from disclosure as provided in
34 chapter 1, title 74, Idaho Code;

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

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

- 1 (g) By the commission of pardons and parole, as provided by law;
- 2 (h) By the custody review board of the Idaho department of juvenile cor-
- 3 rections, as provided by law;
- 4 (i) To engage in communications with a representative of the public
- 5 agency's risk manager or insurance provider to discuss the adjustment
- 6 of a pending claim or prevention of a claim imminently likely to be
- 7 filed. The mere presence of a representative of the public agency's
- 8 risk manager or insurance provider at an executive session does not sat-
- 9 isfy this requirement; or
- 10 (j) To consider labor contract matters authorized under section
- 11 ~~67-2345A~~ 74-206A(1) (a) and (b), Idaho Code.
- 12 (2) The exceptions to the general policy in favor of open meetings
- 13 stated in this section shall be narrowly construed. It shall be a violation
- 14 of this act to change the subject within the executive session to one not
- 15 identified within the motion to enter the executive session or to any topic
- 16 for which an executive session is not provided.
- 17 (3) No executive session may be held for the purpose of taking any final
- 18 action or making any final decision.