

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2489

By Special Committee on Kansas Security

1-9

12 AN ACT amending the open meetings act; relating to closed meetings;
13 amending K.S.A. 2003 Supp. 75-4319 and repealing the existing
14 section.

15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2003 Supp. 75-4319 is hereby amended to read as
18 follows: 75-4319. (a) Upon formal motion made, seconded and carried,
19 all bodies and agencies subject to the open meetings act may recess, but
20 not adjourn, open meetings for closed or executive meetings. Any motion
21 to recess for a closed or executive meeting shall include a statement of
22 (1) the justification for closing the meeting, (2) the subjects to be dis-
23 cussed during the closed or executive meeting and (3) the time and place
24 at which the open meeting shall resume. Such motion, including the re-
25 quired statement, shall be recorded in the minutes of the meeting and
26 shall be maintained as a part of the permanent records of the body or
27 agency. Discussion during the closed or executive meeting shall be limited
28 to those subjects stated in the motion.

29 (b) No subjects shall be discussed at any closed or executive meeting,
30 except the following:

31 (1) Personnel matters of nonelected personnel;

32 (2) consultation with an attorney for the body or agency which would
33 be deemed privileged in the attorney-client relationship;

34 (3) matters relating to employer-employee negotiations whether or
35 not in consultation with the representative or representatives of the body
36 or agency;

37 (4) confidential data relating to financial affairs or trade secrets of
38 corporations, partnerships, trusts, and individual proprietorships;

39 (5) matters relating to actions adversely or favorably affecting a per-
40 son as a student, patient or resident of a public institution, except that
41 any such person shall have the right to a public hearing if requested by
42 the person;

43 (6) preliminary discussions relating to the acquisition of real property;

- 1 (7) matters permitted to be discussed in a closed or executive meeting
2 pursuant to K.S.A. 74-8804 and amendments thereto;
- 3 (8) matters permitted to be discussed in a closed or executive meeting
4 pursuant to subsection (e) of K.S.A. 38-1507 and amendments thereto or
5 subsection (f) of K.S.A. 38-1508 and amendments thereto;
- 6 (9) matters permitted to be discussed in a closed or executive meeting
7 pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
- 8 (10) matters permitted to be discussed in a closed or executive meet-
9 ing pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
- 10 (11) matters permitted to be discussed in a closed or executive meet-
11 ing pursuant to subsection (g) of K.S.A. 39-7,119 and amendments
12 thereto;
- 13 (12) matters required to be discussed in a closed or executive meeting
14 pursuant to a tribal-state gaming compact;
- 15 (13) matters relating to ~~the security of a public body or agency, public~~
16 ~~building or facility or the information system of a public body or agency~~
17 **security measures**, if the discussion of such matters at an open meeting
18 would jeopardize ~~the security of such public body, agency, building, fa-~~
19 ~~cility or information system, and such security measures, that protect:~~
20 **(A) Systems, facilities or equipment used in the production, trans-**
21 **mission or distribution of energy, water or communications serv-**
22 **ices; (B) transportation and sewer or wastewater treatment sys-**
23 **tems, facilities or equipment; (C) a public body or agency, public**
24 **building or facility or the information system of a public body or**
25 **agency; or (D) private property or persons, if the matter is sub-**
26 **mitted to the agency for purposes of this paragraph. For purposes**
27 **of this paragraph, security means measures that protect against**
28 **criminal acts intended to intimidate or coerce the civilian popu-**
29 **lation, influence government policy by intimidation or coercion or**
30 **to affect the operation of government by disruption of public serv-**
31 **ices, mass destruction, assassination or kidnapping. Security meas-**
32 **ures include, but are not limited to, intelligence information, tac-**
33 **tical plans, resource deployment, ~~responses to actual events~~ and**
34 **vulnerability assessments; and**
- 35 (14) matters permitted to be discussed in a closed or executive meet-
36 ing pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto;
37 ~~and~~
- 38 ~~—(15) matters relating to security measures, if the discussion of such~~
39 ~~matters at an open meeting would jeopardize the safety and security of~~
40 ~~the lives, physical safety or property of the citizens of the state. For the~~
41 ~~purpose of this paragraph, security measures means the preparing for,~~
42 ~~preventing or responding to criminal acts intended to intimidate or coerce~~
43 ~~the civilian population, influence government policy by intimidation or~~

1 ~~coercion or to affect the operation of government by destruction, assas-~~
2 ~~sination or kidnapping. Security measures may include, but are not lim-~~
3 ~~ited to, intelligence information, tactical plans, resource deployment, re-~~
4 ~~sponses to actual events or vulnerability assessments.~~

5 (c) No binding action shall be taken during closed or executive re-
6 cesses, and such recesses shall not be used as a subterfuge to defeat the
7 purposes of this act.

8 Sec. 2. K.S.A. 2003 Supp. 75-4319 is hereby repealed.

9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.