

SSB 6047 - H COMM AMD

By Committee on State Government & Tribal Relations

ADOPTED 02/28/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The climate commitment act requires some
4 publicly owned natural gas and electric utilities and other
5 government agencies to obtain greenhouse gas allowances to cover a
6 portion of emissions. Because the allowance auctions must be
7 carefully regulated to guard against market interference, market
8 participants are strictly prohibited from disclosing any information
9 about how they plan to participate in a specific auction. Investor-
10 owned utilities, which are governed by a private board of directors,
11 are able to keep this information confidential. In contrast, many
12 public agencies are overseen by governing boards that are subject to
13 the open public meetings act, which requires that deliberations be
14 conducted in public. This act allows the governing body of a public
15 agency to meet in executive session to consider the information
16 necessary to comply with the climate commitment act's protection of
17 all information necessary to participate in the greenhouse gas
18 allowance market.

19 **Sec. 2.** RCW 42.30.110 and 2022 c 153 s 13 and 2022 c 115 s 12
20 are each reenacted and amended to read as follows:

21 (1) Nothing contained in this chapter may be construed to prevent
22 a governing body from holding an executive session during a regular
23 or special meeting:

24 (a) (i) To consider matters affecting national security;

25 (ii) To consider, if in compliance with any required data
26 security breach disclosure under RCW 19.255.010 and 42.56.590, and
27 with legal counsel available, information regarding the
28 infrastructure and security of computer and telecommunications
29 networks, security and service recovery plans, security risk
30 assessments and security test results to the extent that they
31 identify specific system vulnerabilities, and other information that

1 if made public may increase the risk to the confidentiality,
2 integrity, or availability of agency security or to information
3 technology infrastructure or assets;

4 (b) To consider the selection of a site or the acquisition of
5 real estate by lease or purchase when public knowledge regarding such
6 consideration would cause a likelihood of increased price;

7 (c) To consider the minimum price at which real estate will be
8 offered for sale or lease when public knowledge regarding such
9 consideration would cause a likelihood of decreased price. However,
10 final action selling or leasing public property shall be taken in a
11 meeting open to the public;

12 (d) To review negotiations on the performance of publicly bid
13 contracts when public knowledge regarding such consideration would
14 cause a likelihood of increased costs;

15 (e) To consider, in the case of an export trading company,
16 financial and commercial information supplied by private persons to
17 the export trading company;

18 (f) To receive and evaluate complaints or charges brought against
19 a public officer or employee. However, upon the request of such
20 officer or employee, a public hearing or a meeting open to the public
21 shall be conducted upon such complaint or charge;

22 (g) To evaluate the qualifications of an applicant for public
23 employment or to review the performance of a public employee.
24 However, subject to RCW 42.30.140(4), discussion by a governing body
25 of salaries, wages, and other conditions of employment to be
26 generally applied within the agency shall occur in a meeting open to
27 the public, and when a governing body elects to take final action
28 hiring, setting the salary of an individual employee or class of
29 employees, or discharging or disciplining an employee, that action
30 shall be taken in a meeting open to the public;

31 (h) To evaluate the qualifications of a candidate for appointment
32 to elective office. However, any interview of such candidate and
33 final action appointing a candidate to elective office shall be in a
34 meeting open to the public;

35 (i) To discuss with legal counsel representing the agency matters
36 relating to agency enforcement actions, or to discuss with legal
37 counsel representing the agency litigation or potential litigation to
38 which the agency, the governing body, or a member acting in an
39 official capacity is, or is likely to become, a party, when public

1 knowledge regarding the discussion is likely to result in an adverse
2 legal or financial consequence to the agency.

3 This subsection (1)(i) does not permit a governing body to hold
4 an executive session solely because an attorney representing the
5 agency is present. For purposes of this subsection (1)(i), "potential
6 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
7 concerning:

8 (i) Litigation that has been specifically threatened to which the
9 agency, the governing body, or a member acting in an official
10 capacity is, or is likely to become, a party;

11 (ii) Litigation that the agency reasonably believes may be
12 commenced by or against the agency, the governing body, or a member
13 acting in an official capacity; or

14 (iii) Litigation or legal risks of a proposed action or current
15 practice that the agency has identified when public discussion of the
16 litigation or legal risks is likely to result in an adverse legal or
17 financial consequence to the agency;

18 (j) To consider, in the case of the state library commission or
19 its advisory bodies, western library network prices, products,
20 equipment, and services, when such discussion would be likely to
21 adversely affect the network's ability to conduct business in a
22 competitive economic climate. However, final action on these matters
23 shall be taken in a meeting open to the public;

24 (k) To consider, in the case of the state investment board,
25 financial and commercial information when the information relates to
26 the investment of public trust or retirement funds and when public
27 knowledge regarding the discussion would result in loss to such funds
28 or in private loss to the providers of this information;

29 (l) To consider proprietary or confidential nonpublished
30 information related to the development, acquisition, or
31 implementation of state purchased health care services as provided in
32 RCW 41.05.026;

33 (m) To consider in the case of the life sciences discovery fund
34 authority, the substance of grant applications and grant awards when
35 public knowledge regarding the discussion would reasonably be
36 expected to result in private loss to the providers of this
37 information;

38 (n) To consider in the case of a health sciences and services
39 authority, the substance of grant applications and grant awards when
40 public knowledge regarding the discussion would reasonably be

1 expected to result in private loss to the providers of this
2 information;

3 (o) To consider information regarding staff privileges or quality
4 improvement committees under RCW 70.41.205;

5 (p) To consider proprietary or confidential data collected or
6 analyzed pursuant to chapter 70.405 RCW;

7 (q) To consider greenhouse gas allowance auction bidding
8 information that is prohibited from release or disclosure under RCW
9 70A.65.100(8).

10 (2) Before convening in executive session, the presiding officer
11 of a governing body shall publicly announce the purpose for excluding
12 the public from the meeting place, and the time when the executive
13 session will be concluded. The executive session may be extended to a
14 stated later time by announcement of the presiding officer. The
15 announced purpose of excluding the public must be entered into the
16 minutes of the meeting required by RCW 42.30.035."

17 Correct the title.

EFFECT: Removes redundant language regarding the applicability of
the open public meetings act.

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