

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1012

AN ACT

AMENDING SECTION 38-431.03, ARIZONA REVISED STATUTES; RELATING TO PUBLIC MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-431.03, Arizona Revised Statutes, is amended
3 to read:

4 38-431.03. Executive sessions

5 A. ~~Upon~~ ON a public majority vote of the members constituting a
6 quorum, a public body may hold an executive session but only for the
7 following purposes:

8 1. Discussion or consideration of employment, assignment,
9 appointment, promotion, demotion, dismissal, salaries, disciplining or
10 resignation of a public officer, appointee or employee of any public body,
11 except that, with the exception of salary discussions, an officer,
12 appointee or employee may demand that the discussion or consideration
13 occur at a public meeting. The public body shall provide the officer,
14 appointee or employee with written notice of the executive session as is
15 appropriate but not less than twenty-four hours for the officer, appointee
16 or employee to determine whether the discussion or consideration should
17 occur at a public meeting.

18 2. Discussion or consideration of records exempt by law from public
19 inspection, including the receipt and discussion of information or
20 testimony that is specifically required to be maintained as confidential
21 by state or federal law.

22 3. Discussion or consultation for legal advice with the attorney or
23 attorneys of the public body.

24 4. Discussion or consultation with the attorneys of the public body
25 in order to consider its position and instruct its attorneys regarding the
26 public body's position regarding contracts that are the subject of
27 negotiations, in pending or contemplated litigation or in settlement
28 discussions conducted in order to avoid or resolve litigation.

29 5. Discussions or consultations with designated representatives of
30 the public body in order to consider its position and instruct its
31 representatives regarding negotiations with employee organizations
32 regarding the salaries, salary schedules or compensation paid in the form
33 of fringe benefits of employees of the public body.

34 6. Discussion, consultation or consideration for international and
35 interstate negotiations or for negotiations by a city or town, or its
36 designated representatives, with members of a tribal council, or its
37 designated representatives, of an Indian reservation located within or
38 adjacent to the city or town.

39 7. Discussions or consultations with designated representatives of
40 the public body in order to consider its position and instruct its
41 representatives regarding negotiations for the purchase, sale or lease of
42 real property.

43 8. DISCUSSION OR CONSIDERATION OF MATTERS RELATING TO SCHOOL SAFETY
44 OPERATIONS OR SCHOOL SAFETY PLANS OR PROGRAMS.

1 B. Minutes of and discussions made at executive sessions shall be
2 kept confidential except from:

3 1. Members of the public body which met in executive session.

4 2. Officers, appointees or employees who were the subject of
5 discussion or consideration pursuant to subsection A, paragraph 1 of this
6 section.

7 3. The auditor general on a request made in connection with an
8 audit authorized as provided by law.

9 4. A county attorney or the attorney general when investigating
10 alleged violations of this article.

11 C. The public body shall instruct persons who are present at the
12 executive session regarding the confidentiality requirements of this
13 article.

14 D. Legal action involving a final vote or decision shall not be
15 taken at an executive session, except that the public body may instruct
16 its attorneys or representatives as provided in subsection A, paragraphs
17 4, 5 and 7 of this section. A public vote shall be taken before any legal
18 action binds the public body.

19 E. Except as provided in section 38-431.02, subsections I and J, a
20 public body shall not discuss any matter in an executive session ~~which~~
21 ~~THAT~~ is not described in the notice of the executive session.

22 F. Disclosure of executive session information pursuant to this
23 section or section 38-431.06 does not constitute a waiver of any
24 privilege, including the attorney-client privilege. Any person receiving
25 executive session information pursuant to this section or section
26 38-431.06 shall not disclose that information except to the attorney
27 general or county attorney, by agreement with the public body or to a
28 court in camera for purposes of enforcing this article. Any court that
29 reviews executive session information shall take appropriate action to
30 protect privileged information.

31 Sec. 2. Emergency

32 This act is an emergency measure that is necessary to preserve the
33 public peace, health or safety and is operative immediately as provided by
34 law.