

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

SENATE BILL 1042

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: definitions

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. DISCUSSIONS OR CONSULTATIONS WITH DESIGNATED REPRESENTATIVES OF
44 THE PUBLIC BODY IN ORDER TO DISCUSS SECURITY PLANS, PROCEDURES,
45 ASSESSMENTS, MEASURES OR SYSTEMS RELATING TO, OR HAVING AN IMPACT ON, THE

1 SECURITY OR SAFETY OF BUILDINGS, FACILITIES, OPERATIONS, CRITICAL
2 INFRASTRUCTURE INFORMATION AND INFORMATION TECHNOLOGY MAINTAINED BY THE
3 PUBLIC BODY. RECORDS, DOCUMENTATION, NOTES, OR OTHER MATERIALS MADE BY,
4 OR PROVIDED TO, THE REPRESENTATIVES PURSUANT TO THIS PARAGRAPH ARE
5 CONFIDENTIAL AND EXEMPT FROM PUBLIC DISCLOSURE UNDER THIS CHAPTER AND
6 TITLE 39, CHAPTER 1.

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

9 1. Members of the public body ~~which~~ THAT met in executive session.

10 2. Officers, appointees or employees who were the subject of
11 discussion or consideration pursuant to subsection A, paragraph 1 of this
12 section.

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

15 4. A county attorney or the attorney general when investigating
16 alleged violations of this article.

17 C. The public body shall instruct persons who are present at the
18 executive session regarding the confidentiality requirements of this
19 article.

20 D. Legal action involving a final vote or decision shall not be
21 taken at an executive session, except that the public body may instruct
22 its attorneys or representatives as provided in subsection A, paragraphs
23 4, 5 and 7 of this section. A public vote shall be taken before any legal
24 action binds the public body.

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

28 F. Disclosure of executive session information pursuant to this
29 section or section 38-431.06 does not constitute a waiver of any
30 privilege, including the attorney-client privilege. Any person receiving
31 executive session information pursuant to this section or section
32 38-431.06 shall not disclose that information except to the attorney
33 general or county attorney, by agreement with the public body or to a
34 court in camera for purposes of enforcing this article. Any court that
35 reviews executive session information shall take appropriate action to
36 protect privileged information.

37 G. FOR THE PURPOSES OF THIS SECTION:

38 1. "CRITICAL INFRASTRUCTURE" HAS THE SAME MEANING PRESCRIBED IN
39 SECTION 41-1801.

40 2. "INFORMATION TECHNOLOGY" HAS THE SAME MEANING PRESCRIBED IN
41 SECTION 18-101.