

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1671 Session of 2013

INTRODUCED BY SACCONI, MALONEY, KORTZ, MILNE, WHITE AND SWANGER, SEPTEMBER 3, 2013

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 23, 2014

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, in open meetings, further providing
3 FOR DEFINITIONS, for executive sessions and for penalties. <--

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 708(a) and (b) of Title 65 of the <--
7 Pennsylvania Consolidated Statutes are amended to read:

8 SECTION 1. THE DEFINITION OF "DELIBERATION" IN SECTION 703 <--
9 OF TITLE 65 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED
10 TO READ:

11 § 703. DEFINITIONS.

12 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
13 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
14 CONTEXT CLEARLY INDICATES OTHERWISE:

15 * * *

16 "DELIBERATION." THE DISCUSSION OF AGENCY BUSINESS HELD FOR
17 THE PURPOSE OF MAKING A DECISION. THE TERM INCLUDES AN
18 INFORMATIONAL MEETING OR BRIEFING THAT IS REQUIRED TO BE OPEN TO

1 THE PUBLIC.

2 * * *

3 SECTION 2. SECTION 708(A) AND (B) OF TITLE 65 ARE AMENDED TO
4 READ:

5 § 708. Executive sessions.

6 (a) Purpose.--An agency may hold an executive session for
7 one or more of the following reasons:

8 (1) To discuss any matter [involving], as it pertains to
9 a specific individual prospective, current or former
10 employee, relating to the employment, appointment,
11 termination of employment, terms and conditions of
12 employment, evaluation of performance, promotion or
13 disciplining of [any] the specific individual prospective
14 [public officer or] employee or current [public officer or]
15 employee employed or appointed by the agency, or specific
16 individual former [public officer or] employee, provided,
17 however, that the individual employees [or appointees] whose
18 rights could be adversely affected may request, in writing,
19 that the matter or matters be discussed at an open meeting.
20 The agency's decision to discuss such matters in executive
21 session shall not serve to adversely affect the due process
22 rights granted by law, including those granted by Title 2
23 (relating to administrative law and procedure). The
24 provisions of this paragraph shall not apply to any meeting
25 involving the appointment or selection of any person to fill
26 a vacancy in any elected office. An agency shall discuss all
27 other agency business relating to the employment,
28 appointment, termination of employment, terms and conditions
29 of employment, evaluation of performance, promotion or
30 disciplining of employees of the agency at an open meeting

1 under section 704 (relating to open meetings).

2 (2) To hold information, strategy and negotiation
3 sessions related to the negotiation or arbitration of a
4 collective bargaining agreement or, in the absence of a
5 collective bargaining unit, related to labor relations and
6 arbitration.

7 (3) To consider the purchase or lease of real property
8 up to the time an option to purchase or lease the real
9 property is obtained or up to the time an agreement to
10 purchase or lease such property is obtained if the agreement
11 is obtained directly without an option.

12 (4) To consult with its attorney or other professional
13 advisor regarding information or strategy in connection with
14 litigation or with issues on which identifiable complaints
15 are expected to be filed.

16 (5) To review and discuss agency business which, if
17 conducted in public, would violate a lawful privilege or lead
18 to the disclosure of information or confidentiality protected
19 by law, including matters related to the initiation and
20 conduct of investigations of possible or certain violations
21 of the law and quasi-judicial deliberations.

22 (6) For duly constituted committees of a board or
23 council of trustees of a State-owned, State-aided or State-
24 related college or university or community college or of the
25 Board of Governors of the State System of Higher Education to
26 discuss matters of academic admission or standings.

27 (7) To review and discuss plans related to security and
28 emergency preparedness, including the physical security of
29 buildings, staff training, communication procedures, plans
30 for evacuation, lock-down or other safety measures,

1 coordination with police, fire and other safety agencies that
2 if disclosed would be reasonably likely to DEFINITELY <--
3 jeopardize or threaten security or preparedness. The cost of
4 implementing a plan and ALL information relating to the <--
5 equipment to be purchased shall be discussed at an open
6 meeting under section 704.

7 (b) Procedure.--

8 (1) The executive session may be held during an open
9 meeting or at the conclusion of an open meeting or may be
10 announced for a future time. The reason for holding the
11 executive session must be announced at the open meeting
12 occurring immediately prior or subsequent to the executive
13 session. If the executive session is not announced for a
14 future specific time, members of the agency shall be notified
15 24 hours in advance of the time of the convening of the
16 meeting specifying the date, time, location and purpose of
17 the executive session.

18 ~~(2) The entire executive session shall be recorded and~~ <--
19 ~~the agency shall maintain the recording for a period of one~~
20 ~~year.~~

21 (2) AN AGENCY HOLDING AN EXECUTIVE SESSION UNDER THIS <--
22 SUBSECTION SHALL MAKE A VERBATIM AUDIO OR VIDEO RECORDING OF
23 THE COMPLETE EXECUTIVE SESSION AND RETAIN THE RECORDING FOR A
24 PERIOD OF ONE YEAR. SUCH RECORDINGS ARE NOT SUBJECT TO PUBLIC
25 INSPECTION AND COPYING UNDER THE ACT OF FEBRUARY 14, 2008
26 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, EXCEPT BY
27 COURT ORDER OR AS AUTHORIZED BY THE AGENCY.

28 (3) Prior to holding an executive session on any matter,
29 the agency shall obtain advice from a solicitor or legal
30 counsel as to whether or not the matter may be discussed at

1 an executive session under the provisions of this section.

2 (4) IN THE ABSENCE OF A SOLICITOR, THE PERSON IN CHARGE <--
3 OF RUNNING THE MEETING SHALL DETERMINE ON THE RECORD WHETHER
4 THE INFORMATION ON THE AGENDA NEEDS TO BE DISCUSSED IN AN
5 EXECUTIVE SESSION.

6 * * *

7 Section 2 3. Section 714 of Title 65 is amended ~~by adding a~~ <--
8 ~~subsection~~ to read:

9 § 714. Penalty.

10 * * *

11 (A) FINES AND COSTS.--ANY MEMBER OF ANY AGENCY WHO <--
12 PARTICIPATES IN A MEETING WITH THE INTENT AND PURPOSE BY THAT
13 MEMBER OF VIOLATING THIS CHAPTER COMMITS A SUMMARY OFFENSE FOR A
14 FIRST OFFENSE AND A MISDEMEANOR OF THE THIRD DEGREE FOR A SECOND
15 OR SUBSEQUENT OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED
16 TO PAY:

17 (1) FOR A FIRST OFFENSE, IN ADDITION TO ANY OTHER
18 PENALTY AUTHORIZED BY LAW, THE COSTS OF PROSECUTION PLUS A
19 FINE OF AT LEAST \$100 AND, IN THE DISCRETION OF THE
20 SENTENCING AUTHORITY, OF NOT MORE THAN \$1,000.

21 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, THE COSTS OF
22 PROSECUTION PLUS A FINE OF AT LEAST \$500 AND, IN THE
23 DISCRETION OF THE SENTENCING AUTHORITY, OF NOT MORE THAN
24 \$2,000.

25 (B) PAYMENT.--AN AGENCY SHALL NOT MAKE A PAYMENT ON BEHALF
26 OF OR REIMBURSE A MEMBER OF AN AGENCY FOR A FINE OR COST
27 RESULTING FROM THE MEMBER'S VIOLATION OF THIS SECTION.

28 (c) Immunity.--Any member of an agency shall be immune from
29 CIVIL AND criminal liability, costs and fees for violations of <--
30 this chapter if the member makes a good faith report, verbally

1 or in writing, to the appropriate authority of a violation of
2 this chapter.

3 Section 3 4. This act shall take effect in 60 days.

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