

Senate State and Local Government Committee 1

Amendment No. 1 to SB0169

**Yager
Signature of Sponsor**

AMEND Senate Bill No. 169*

House Bill No. 397

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-44-102(b), is amended by adding the following as a new subdivision:

(3) "Executive session" means a meeting from which the public is excluded. An executive session may be entered into by the affirmative vote of a majority of the members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. The vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except for actions relating to the securing of real estate options under subdivision (b)(3)(A). A public body shall not hold an executive session except to consider one (1) or more of the following:

(A) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest; or

(B) To consult with the attorney regarding information or strategy in connection with litigation or with issues on which identifiable complaints are expected to be filed.

SECTION 2. Tennessee Code Annotated, Section 8-44-102, is further amended by adding the following as a new subsection:

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(d) Executive sessions are not required, but may be held by a governing body for the following purposes and under the following conditions:

(1)

(A) Pursuant to subdivision (b)(3)(A), a meeting to discuss the consideration a governing body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property; provided, however, that the material terms of any contract to purchase, exchange, sell, or lease real property shall be disclosed in the public portion of a meeting before the execution of the contract.

(B) If an executive session is utilized pursuant to subdivision (b)(3)(A), then, in addition to the members of the governing body, only persons representing the interests of the governing body in the transaction may be present during the executive session. Subdivision (b)(3)(A) shall not apply if:

(i) Any member of the governing body involved in the transaction has a personal interest in the transaction and attends or participates in the executive session concerning the real property; or

(ii) A condemnation action has been filed to acquire the real property involved in the discussion.

(2) Pursuant to subdivision (b)(3)(B), any executive session or portion of a meeting to be closed shall be conducted by the attorney for the governing body, who shall:

(A) Advise the members that the meeting is between the attorney and the client;

(B) Explain that the meeting is being held for the sole purpose of relaying confidential client communication and legal advice regarding pending litigation, when the government entity is a named party in a lawsuit, or an anticipated lawsuit;

(C) Explain that all comments from the members shall be directed to the attorney;

(D) Explain that no votes shall be taken in the executive session; and

(E) Announce when the public portion of the meeting shall resume or when the subject of the executive session shall be discussed in public or scheduled for a vote.

(e) The adequate public notice requirements of § 8-44-103 shall apply to executive sessions to the same extent as any other regular and special meetings of the public body.

(f) Before any meeting may be closed under this section:

(1) If public notice has not been given, then the governing body's intent to go into executive session shall appear on the proposed meeting agenda;

(2) A quorum of the governing body shall convene in public. The presiding officer or, in the case of attorney-client meetings, the attorney shall explain to the members and public assembled the specific statutory or legal exemption for closing the meeting;

(3) Members of the governing body shall vote by roll call in the public portion of the meeting on whether the closing is necessary. A majority vote shall be required to go into executive session; and

(4) The presiding officer or attorney representing the governing body shall explain to the members of the governing body and any members of the public present that no votes shall be taken and no other business shall be discussed during the closed executive session.

SECTION 3. Tennessee Code Annotated, Section 8-44-102(b), is further amended by adding the following language as a new subdivision:

(4) "Deliberate" means to examine and consult in order to form an opinion, and to weigh arguments for and against a proposed course of action;

SECTION 4. Tennessee Code Annotated, Section 8-44-102(a), is amended by deleting the language "All meetings" and substituting instead the language "Except in an executive session, all meetings".

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.