

## Legislation Text

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Executive Session, pursuant to SDCL 1-25-2.3, for the purpose of consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters, and SDCL 1-25-2.5, for the purpose of discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business.

SDCL 1-25-2. Executive or closed meetings--Purposes--Authorization--Violation as misdemeanor. Executive or closed meetings may be held for the sole purposes of:

- 1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;
- 2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;
- 3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;
- 4) Preparing for contract negotiations or negotiating with employees or employee representatives;
- 5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or
- 6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:
  - a. Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;
  - b. Emergency management or response;
  - c. Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;
  - d. Cyber security plans, computer, communications network schema, passwords, or user identification names;
  - e. Guard schedules;
  - f. Lock combinations;
  - g. Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and
  - h. Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a Class 2 misdemeanor.

Source: SL 1965, ch 269; SL 1980, ch 24, § 10; SL 1987, ch 22, § 1; SL 2014, ch 90, § 2; SL 2019, ch 2, § 1; SL 2022, ch 4, § 2.