

By Senator Negrón

32-00046-13

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1                   A bill to be entitled  
2       An act relating to public meetings; creating s.  
3       286.0114, F.S.; requiring that a member of the public  
4       be given a reasonable opportunity to be heard before a  
5       board or commission takes official action on a  
6       proposition before a board or commission of any state  
7       agency or authority or of any agency or authority of  
8       any county, municipal corporation, or political  
9       subdivision; providing that the opportunity to be  
10      heard is subject to rules or policies adopted by the  
11      board or commission; specifying certain exceptions;  
12      providing requirements for rules or policies governing  
13      the opportunity to be heard; providing that compliance  
14      with the requirements of the act is presumed under  
15      certain circumstances; authorizing a court to assess  
16      reasonable attorney fees in actions filed against a  
17      board or commission; providing that any action taken  
18      by a board or commission which is found in violation  
19      of the act is not void; providing that circuit courts  
20      have jurisdiction to issue injunctions for purposes of  
21      the act; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25       Section 1. Section 286.0114, Florida Statutes, is created  
26 to read:

27       286.0114 Public meetings; reasonable opportunity to be  
28 heard; attorney fees.-

29       (1) Members of the public shall be given a reasonable

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30 opportunity to be heard on a proposition before a board or  
31 commission of any state agency or authority or of any agency or  
32 authority of any county, municipal corporation, or political  
33 subdivision. The opportunity to be heard need not occur at the  
34 same meeting at which the board or commission takes official  
35 action on the item, if the opportunity occurs at a meeting that  
36 meets the same notice requirements as the meeting at which the  
37 board or commission takes official action on the item, occurs at  
38 a meeting that is during the decisionmaking process, and is  
39 within reasonable proximity before the meeting at which the  
40 board or commission takes the official action. The opportunity  
41 to be heard is subject to reasonable rules or policies adopted  
42 by the board or commission to ensure the orderly conduct of a  
43 public meeting, as provided in subsection (3).

44 (2) The requirements in subsection (1) do not apply to:

45 (a) An official act that must be taken to deal with an  
46 emergency situation affecting the public health, welfare, or  
47 safety, when compliance with the requirements would cause an  
48 unreasonable delay in the ability of the board or commission to  
49 act;

50 (b) An official act involving no more than a ministerial  
51 act;

52 (c) Any meeting that is exempt from the provisions of s.  
53 286.011; or

54 (d) A meeting in which the board or commission is acting in  
55 a quasi-judicial capacity with respect to the rights or  
56 interests of a person. This paragraph does not affect the right  
57 of a person to be heard as otherwise provided by law.

58 (3) Rules or policies of a board or commission must be

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59 limited to rules or policies that:

60 (a) Limit the time an individual has to address the board  
61 or commission;

62 (b) Require, at meetings in which a large number of  
63 individuals wish to be heard, that representatives of groups or  
64 factions on an item, rather than all of the members of the  
65 groups or factions, address the board or commission;

66 (c) Prescribe procedures or forms for an individual to use  
67 in order to inform the board or commission of a desire to be  
68 heard; to indicate his or her support, opposition, or neutrality  
69 on a proposition; and to indicate his or her designation of a  
70 representative to speak for him or her or his or her group on a  
71 proposition if he or she so chooses; or

72 (d) Designate a specified period of time for public  
73 comment.

74 (4) (a) If a board or commission adopts rules or policies in  
75 compliance with this section and follows such rules or policies  
76 when providing an opportunity for members of the public to be  
77 heard, it is presumed that the board or commission is acting in  
78 compliance with this section.

79 (b) Whenever an action is filed against a board or  
80 commission of any state agency or authority of a county,  
81 municipal corporation, or political subdivision to enforce the  
82 provisions of this section, the court shall assess reasonable  
83 attorney fees against such agency or authority if the court  
84 determines that the defendant to such action acted in violation  
85 of this section. The court may assess reasonable attorney fees  
86 against the individual filing such an action if the court finds  
87 that the action was filed in bad faith or was frivolous. This

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88 paragraph does not apply to a state attorney or his or her duly  
89 authorized assistants or any officer charged with enforcing the  
90 provisions of this section.

91 (c) Any action taken by a board or commission which is  
92 found to be in violation of this section is not void as a result  
93 of that violation.

94 (d) The circuit courts have jurisdiction to issue  
95 injunctions for the purpose of enforcing this section upon the  
96 filing of an application for such injunction by any citizen of  
97 this state.

98 Section 2. This act shall take effect July 1, 2013.