

1                                   A bill to be entitled  
 2           An act relating to public meetings; amending s. 286.011,  
 3           F.S.; expanding the public meetings exemption for a  
 4           private meeting between a governmental entity and the  
 5           entity's attorneys to discuss pending litigation to which  
 6           the governmental entity is a party before a court or  
 7           administrative agency; revising and providing additional  
 8           conditions precedent to such private meetings; providing  
 9           for future legislative review and repeal of the exemption;  
 10          providing a statement of public necessity; providing an  
 11          effective date.

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 13   Be It Enacted by the Legislature of the State of Florida:

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 15           Section 1. Subsection (8) of section 286.011, Florida  
 16   Statutes, is amended to read:

17           286.011 Public meetings and records; public inspection;  
 18   criminal and civil penalties.—

19           (8) (a) Notwithstanding ~~the provisions of~~ subsection (1),  
 20   any board or commission of any state agency or authority or any  
 21   agency or authority of any county, municipal corporation, or  
 22   political subdivision, and the chief administrative or executive  
 23   officer of the governmental entity, and the risk manager and  
 24   division heads of the governmental entity identified by the  
 25   chief administrative or executive officer as being involved in  
 26   pending litigation may meet in private with the entity's  
 27   attorneys ~~attorney~~ to discuss pending litigation to which the  
 28   entity is presently a party before a court or administrative

29 agency, ~~if provided that the following conditions are met:~~

30 1. The entity gives reasonable public notice of the time  
 31 and date of the attorney-client session and the names of persons  
 32 who will be attending the session.

33 2. The session commences as an open meeting at which the  
 34 person chairing the meeting announces the commencement and  
 35 estimated length of the attorney-client session and the names of  
 36 the persons attending.

37 3.(a) The entity's attorney advises ~~shall advise~~ the  
 38 entity at the a public meeting that he or she desires advice  
 39 concerning the litigation, which advisory announcement may be  
 40 made immediately before the attorney-client session begins.

41 4.(b) The subject matter of the session is ~~meeting shall~~  
 42 be confined to settlement negotiations or strategy sessions  
 43 relating ~~related~~ to litigation expenditures.

44 5. A person who is an adverse party to the litigation is  
 45 not permitted to attend the attorney-client session.

46 6.(c) The entire session is ~~shall be~~ recorded by a  
 47 certified court reporter. The reporter shall record the times of  
 48 commencement and termination of the session, all discussion and  
 49 proceedings, the names of all persons present at any time, and  
 50 the names of all persons speaking. No portion of the session  
 51 shall be off the record. The court reporter's notes must ~~shall~~  
 52 be fully transcribed and filed with the entity's clerk within a  
 53 reasonable time after the meeting.

54 ~~7.(d) The entity shall give reasonable public notice of~~  
 55 ~~the time and date of the attorney-client session and the names~~  
 56 ~~of persons who will be attending the session. The session shall~~

57 ~~commence at an open meeting at which the persons chairing the~~  
 58 ~~meeting shall announce the commencement and estimated length of~~  
 59 ~~the attorney-client session and the names of the persons~~  
 60 ~~attending.~~ At the conclusion of the attorney-client session, the  
 61 meeting is ~~shall be~~ reopened, and the person chairing the  
 62 meeting announces ~~shall announce~~ the termination of the  
 63 attorney-client session.

64 8.(e) The transcript is ~~shall be~~ made part of the public  
 65 record upon conclusion of the litigation.

66 9. A person in attendance at the attorney-client session  
 67 agrees not to disclose any part of the discussion that took  
 68 place during the session until the conclusion of the litigation  
 69 unless ordered by the court.

70 (b) This subsection is subject to the Open Government  
 71 Sunset Review Act in accordance with s. 119.15 and shall stand  
 72 repealed on October 2, 2015, unless reviewed and saved from  
 73 repeal through reenactment by the Legislature.

74 Section 2. The Legislature finds that it is a public  
 75 necessity to expand the current exemption from public meeting  
 76 requirements for those meetings wherein any board or commission  
 77 of any state agency or authority or any agency or authority of  
 78 any county, municipal corporation, or political subdivision, and  
 79 the chief administrative or executive officer of the  
 80 governmental entity meet in private with the entity's attorneys  
 81 to discuss pending litigation to which the entity is presently a  
 82 party before a court or administrative agency. The Legislature  
 83 also finds that it is a public necessity to exclude from those  
 84 attorney-client sessions any person who is an adverse party to

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85 the litigation. If such person was authorized to attend the  
86 closed attorney-client session, then that person would be privy  
87 to attorney-client discussions that would provide that person  
88 with an advantage in the litigation process. Allowing such  
89 person to attend discussions regarding settlement negotiations  
90 and litigation strategies places the public body at a  
91 disadvantage in the judicial and administrative process.  
92 Further, the Legislature finds that it is a public necessity to  
93 prohibit a person from attending a closed attorney-client  
94 session if that person does not agree to the nondisclosure  
95 restriction provided in the act. If a person attending a closed  
96 attorney-client session discloses any part of the discussion  
97 that took place during the session prior to conclusion of the  
98 litigation or unless ordered by the court, then that person  
99 places the public body at a disadvantage with the adverse party  
100 by revealing litigation strategies. Consequently, the  
101 Legislature finds that in order to ensure the fair treatment of  
102 a public body as part of the judicial and administrative process  
103 it is a public necessity to prohibit a person who is an adverse  
104 party to litigation from attending closed attorney-client  
105 sessions and to prohibit a person from attending such sessions  
106 if that person does not agree to the nondisclosure requirements  
107 created by the act.

108 Section 3. This act shall take effect upon becoming a law.