



689504

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Rules Subcommittee on Ethics and Elections
(Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (8) of section
112.3215, Florida Statutes, is amended to read:

112.3215 Lobbying before the executive branch or the
Constitution Revision Commission; registration and reporting;
investigation by commission.—

(8)

(b) All proceedings, the complaint, and other records



689504

13 relating to the investigation are confidential and exempt from
14 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution, and any meetings held pursuant to an investigation
16 are exempt from the provisions of s. 286.011~~(1)~~ and s. 24(b),
17 Art. I of the State Constitution either until the alleged
18 violator requests in writing that such investigation and
19 associated records and meetings be made public or until the
20 commission determines, based on the investigation, whether
21 probable cause exists to believe that a violation has occurred.

22 Section 2. Section 286.011, Florida Statutes, is amended to
23 read:

24 286.011 Public meetings and records; opportunity to be
25 heard; public inspection; criminal and civil penalties.—

26 (1) (a) All meetings of any board or commission of any state
27 agency or authority or of any agency or authority of any county,
28 municipal corporation, or political subdivision, except as
29 otherwise provided in the Constitution, at which official acts
30 are to be taken are declared to be public meetings open to the
31 public at all times, and no resolution, rule, or formal action
32 shall be considered binding except as taken or made at such
33 meeting. The board or commission must provide reasonable notice
34 of all such meetings.

35 (b)1. Members of the public shall be given an opportunity
36 to be heard on a proposition before the board or commission. The
37 opportunity to be heard need not occur at the same meeting at
38 which the board or commission takes official action on the item,
39 if the opportunity occurs at a meeting that meets the same
40 notice requirements as the meeting at which the board or
41 commission takes official action on the item, occurs at a



689504

42 meeting that is during the decisionmaking process, and is within
43 reasonable proximity to the meeting at which the board or
44 commission takes the official action. The opportunity to be
45 heard is subject to reasonable rules or policies adopted by the
46 board or commission to ensure the orderly conduct of a public
47 meeting, as provided in subparagraph 3. A resolution, rule, or
48 formal action is not binding unless taken or made in compliance
49 with this paragraph.

50 2. The requirements in subparagraph 1. do not apply to:

51 a. An official act that must be taken to deal with an
52 emergency situation affecting the public health, welfare, or
53 safety, when compliance with the requirements would cause an
54 unreasonable delay in the ability of the board or commission to
55 act;

56 b. An official act involving no more than a ministerial
57 act; or

58 c. A meeting in which the board or commission is acting in
59 a quasi-judicial capacity with respect to the rights or
60 interests of a person. This sub-subparagraph does not affect the
61 right of a person to be heard as otherwise provided by law.

62 3. Rules or policies of a board or commission adopted under
63 subparagraph 5. must be limited to rules or policies that:

64 a. Limit the time an individual has to address the board or
65 commission;

66 b. Require, at meetings in which a large number of
67 individuals wish to be heard, that representatives of groups or
68 factions on an item, rather than all of the members of the
69 groups or factions, address the board or commission; or

70 c. Prescribe procedures or forms for an individual to use



689504

71 in order to inform the board or commission of a desire to be
72 heard, to indicate his or her support, opposition, or neutrality
73 on a proposition, and to indicate his or her designation of a
74 representative to speak for him or her or his or her group on a
75 proposition if he or she so chooses.

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

81 5. Each board or commission that is subject to chapter 120
82 shall adopt rules under ss. 120.536(1) and 120.54 to administer
83 this paragraph.

84 (2) The minutes of a meeting of any such board or
85 commission of any such state agency or authority shall be
86 promptly recorded, and such records shall be open to public
87 inspection. The circuit courts of this state ~~shall~~ have
88 jurisdiction to issue injunctions to enforce the purposes of
89 this section upon application by any citizen of this state.

90 (3) (a) Any public officer who violates any provision of
91 this section commits ~~is guilty of~~ a noncriminal infraction,
92 punishable by fine not exceeding \$500.

93 (b) Any person who is a member of a board or commission or
94 of any state agency or authority of any county, municipal
95 corporation, or political subdivision who knowingly violates the
96 provisions of this section by attending a meeting not held in
97 accordance with the provisions of this section commits ~~hereof is~~
98 ~~guilty of~~ a misdemeanor of the second degree, punishable as
99 provided in s. 775.082 or s. 775.083.



689504

100 (c) Conduct occurring ~~which occurs~~ outside the state which
101 would constitute a knowing violation of this section is a
102 misdemeanor of the second degree, punishable as provided in s.
103 775.082 or s. 775.083.

104 (4) Whenever an action has been filed against any board or
105 commission of any state agency or authority or any agency or
106 authority of any county, municipal corporation, or political
107 subdivision to enforce the provisions of this section or to
108 invalidate the actions of any such board, commission, agency, or
109 authority, which action was taken in violation of this section,
110 and the court determines that the defendant or defendants to
111 such action acted in violation of this section, the court shall
112 assess a reasonable attorney's fee against such agency, and may
113 assess a reasonable attorney's fee against the individual filing
114 such an action if the court finds it was filed in bad faith or
115 was frivolous. Any fees so assessed may be assessed against the
116 individual member or members of such board or commission;
117 provided, that in any case where the board or commission seeks
118 the advice of its attorney and such advice is followed, no such
119 fees shall be assessed against the individual member or members
120 of the board or commission. However, this subsection does ~~shall~~
121 not apply to a state attorney or his or her duly authorized
122 assistants or any officer charged with enforcing the provisions
123 of this section.

124 (5) Whenever any board or commission of any state agency or
125 authority or any agency or authority of any county, municipal
126 corporation, or political subdivision appeals any court order
127 that ~~which~~ has found the ~~said~~ board, commission, agency, or
128 authority to have violated this section, and such order is



689504

129 affirmed, the court shall assess a reasonable attorney's fee for
130 the appeal against such board, commission, agency, or authority.
131 Any fees so assessed may be assessed against the individual
132 member or members of such board or commission; provided, that in
133 any case where the board or commission seeks the advice of its
134 attorney and such advice is followed, no such fees shall be
135 assessed against the individual member or members of the board
136 or commission.

137 (6) All persons subject to paragraph (1)(a) ~~subsection (1)~~
138 are prohibited from holding meetings at any facility or location
139 that ~~which~~ discriminates on the basis of sex, age, race, creed,
140 color, origin, or economic status or that ~~which~~ operates in such
141 a manner as to unreasonably restrict public access to such a
142 facility.

143 (7) Whenever any member of any board or commission of any
144 state agency or authority or any agency or authority of any
145 county, municipal corporation, or political subdivision is
146 charged with a violation of this section and is subsequently
147 acquitted, the board or commission is authorized to reimburse
148 the ~~said~~ member for any portion of his or her reasonable
149 attorney's fees.

150 (8) Notwithstanding the provisions of paragraph (1)(a)
151 ~~subsection (1)~~, any board or commission of any state agency or
152 authority or any agency or authority of any county, municipal
153 corporation, or political subdivision, and the chief
154 administrative or executive officer of the governmental entity,
155 may meet in private with the entity's attorney to discuss
156 pending litigation to which the entity is presently a party
157 before a court or administrative agency, provided that the



689504

158 following conditions are met:

159 (a) The entity's attorney shall advise the entity at a
160 public meeting that he or she desires advice concerning the
161 litigation.

162 (b) The subject matter of the meeting shall be confined to
163 settlement negotiations or strategy sessions related to
164 litigation expenditures.

165 (c) The entire session shall be recorded by a certified
166 court reporter. The reporter shall record the times of
167 commencement and termination of the session, all discussion and
168 proceedings, the names of all persons present at any time, and
169 the names of all persons speaking. No portion of the session
170 shall be off the record. The court reporter's notes shall be
171 fully transcribed and filed with the entity's clerk within a
172 reasonable time after the meeting.

173 (d) The entity shall give reasonable public notice of the
174 time and date of the attorney-client session and the names of
175 persons who will be attending the session. The session shall
176 commence at an open meeting at which the persons chairing the
177 meeting shall announce the commencement and estimated length of
178 the attorney-client session and the names of the persons
179 attending. At the conclusion of the attorney-client session, the
180 meeting shall be reopened, and the person chairing the meeting
181 shall announce the termination of the session.

182 (e) The transcript shall be made part of the public record
183 upon conclusion of the litigation.

184 Section 3. This act shall take effect July 1, 2012.

185
186 ===== T I T L E A M E N D M E N T =====



689504

187 And the title is amended as follows:

188 Delete everything before the enacting clause
189 and insert:

190 A bill to be entitled

191 An act relating to public meetings; amending s.
192 112.3215, F.S.; conforming a cross-reference; amending
193 s. 286.011, F.S.; requiring that a member of the
194 public be given a reasonable opportunity to be heard
195 before a board or commission takes official action on
196 an item of significant interest to the public under
197 certain circumstances; providing exceptions; requiring
198 that a board or commission adopt rules; providing an
199 effective date.