

By Senator Negrón

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1                   A bill to be entitled  
2           An act relating to public meetings; amending s.  
3           112.3215, F.S.; conforming a cross-reference; amending  
4           s. 286.011, F.S.; requiring that members of the public  
5           be given a reasonable opportunity to be heard before a  
6           board or commission takes official action on an item  
7           of significant interest to the public under certain  
8           circumstances; providing exceptions; requiring that a  
9           board or commission adopt rules; providing an  
10          effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Paragraph (b) of subsection (8) of section  
15           112.3215, Florida Statutes, is amended to read:

16           112.3215 Lobbying before the executive branch or the  
17           Constitution Revision Commission; registration and reporting;  
18           investigation by commission.—

19           (8)

20           (b) All proceedings, the complaint, and other records  
21           relating to the investigation are confidential and exempt from  
22           the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
23           Constitution, and any meetings held pursuant to an investigation  
24           are exempt from the provisions of s. 286.011~~(1)~~ and s. 24(b),  
25           Art. I of the State Constitution either until the alleged  
26           violator requests in writing that such investigation and  
27           associated records and meetings be made public or until the  
28           commission determines, based on the investigation, whether  
29           probable cause exists to believe that a violation has occurred.

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30 Section 2. Section 286.011, Florida Statutes, is amended to  
31 read:

32 286.011 Public meetings and records; opportunity to be  
33 heard; public inspection; criminal and civil penalties.—

34 (1) (a) All meetings of any board or commission of any state  
35 agency or authority or of any agency or authority of any county,  
36 municipal corporation, or political subdivision, except as  
37 otherwise provided in the Constitution, at which official acts  
38 are to be taken are declared to be public meetings open to the  
39 public at all times, and no resolution, rule, or formal action  
40 shall be considered binding except as taken or made at such  
41 meeting. The board or commission must provide reasonable notice  
42 of all such meetings.

43 (b)1. Members of the public shall be given a reasonable  
44 opportunity to be heard on an item that is of significant  
45 interest to the public and that is within the subject matter  
46 jurisdiction of the board or commission. The opportunity to be  
47 heard need not occur at the same meeting at which the board or  
48 commission takes official action on the item, if the opportunity  
49 occurs at a meeting that is during the decisionmaking process  
50 and within reasonable proximity before the board or commission  
51 takes the official action. The opportunity to be heard is  
52 subject to reasonable rules or policies adopted by the board or  
53 commission to ensure the orderly conduct of a public meeting, as  
54 provided in subparagraph 3. A resolution, rule, or formal action  
55 is not binding unless taken or made in compliance with this  
56 paragraph.

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

58 a. An official act that must be taken to deal with an

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59 emergency situation affecting the public health, welfare, or  
60 safety, when compliance with the requirements would cause an  
61 unreasonable delay in the ability of the board or commission to  
62 act;

63 b. An official act involving no more than a ministerial  
64 act; or

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

69 3. Rules or policies of a board or commission adopted under  
70 subparagraph 5. may:

71 a. Limit the time an individual has to address the board or  
72 commission;

73 b. Require, at meetings in which a large number of  
74 individuals wish to be heard, that a representative of a group  
75 or faction on an item, rather than all of the members of the  
76 group or faction, address the board or commission; or

77 c. Prescribe procedures or forms for an individual to use  
78 in order to inform the board or commission of a desire to be  
79 heard.

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

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

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

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

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

104 (c) Conduct occurring ~~which occurs~~ outside the state which  
105 would constitute a knowing violation of this section is a  
106 misdemeanor of the second degree, punishable as provided in s.  
107 775.082 or s. 775.083.

108 (4) Whenever an action has been filed against any board or  
109 commission of any state agency or authority or any agency or  
110 authority of any county, municipal corporation, or political  
111 subdivision to enforce the provisions of this section or to  
112 invalidate the actions of any such board, commission, agency, or  
113 authority, which action was taken in violation of this section,  
114 and the court determines that the defendant or defendants to  
115 such action acted in violation of this section, the court shall  
116 assess a reasonable attorney's fee against such agency, and may

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117 assess a reasonable attorney's fee against the individual filing  
118 such an action if the court finds it was filed in bad faith or  
119 was frivolous. Any fees so assessed may be assessed against the  
120 individual member or members of such board or commission;  
121 provided, that in any case where the board or commission seeks  
122 the advice of its attorney and such advice is followed, no such  
123 fees shall be assessed against the individual member or members  
124 of the board or commission. However, this subsection does ~~shall~~  
125 not apply to a state attorney or his or her duly authorized  
126 assistants or any officer charged with enforcing the provisions  
127 of this section.

128 (5) Whenever any board or commission of any state agency or  
129 authority or any agency or authority of any county, municipal  
130 corporation, or political subdivision appeals any court order  
131 that ~~which~~ has found the ~~said~~ board, commission, agency, or  
132 authority to have violated this section, and such order is  
133 affirmed, the court shall assess a reasonable attorney's fee for  
134 the appeal against such board, commission, agency, or authority.  
135 Any fees so assessed may be assessed against the individual  
136 member or members of such board or commission; provided, that in  
137 any case where the board or commission seeks the advice of its  
138 attorney and such advice is followed, no such fees shall be  
139 assessed against the individual member or members of the board  
140 or commission.

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

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146 facility.

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

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

163 (a) The entity's attorney shall advise the entity at a  
164 public meeting that he or she desires advice concerning the  
165 litigation.

166 (b) The subject matter of the meeting shall be confined to  
167 settlement negotiations or strategy sessions related to  
168 litigation expenditures.

169 (c) The entire session shall be recorded by a certified  
170 court reporter. The reporter shall record the times of  
171 commencement and termination of the session, all discussion and  
172 proceedings, the names of all persons present at any time, and  
173 the names of all persons speaking. No portion of the session  
174 shall be off the record. The court reporter's notes shall be

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175 fully transcribed and filed with the entity's clerk within a  
176 reasonable time after the meeting.

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

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

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