

By the Committee on Rules Subcommittee on Ethics and Elections;
and Senators Negron, Gaetz, and Evers

582-01810A-12

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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 a member of the
5 public be given an 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 or policies; providing
10 an 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 an opportunity
44 to be heard on a proposition before the board or commission. The
45 opportunity to be heard need not occur at the same meeting at
46 which the board or commission takes official action on the item,
47 if the opportunity occurs at a meeting that meets the same
48 notice requirements as the meeting at which the board or
49 commission takes official action on the item, occurs at a
50 meeting that is during the decisionmaking process, and is within
51 reasonable proximity to the meeting at which the board or
52 commission takes the official action. The opportunity to be
53 heard is subject to reasonable rules or policies adopted by the
54 board or commission to ensure the orderly conduct of a public
55 meeting, as provided in subparagraph 3. A resolution, rule, or
56 formal action is not binding unless taken or made in compliance
57 with this paragraph.

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

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59 a. An official act that must be taken to deal with an
60 emergency situation affecting the public health, welfare, or
61 safety, when compliance with the requirements would cause an
62 unreasonable delay in the ability of the board or commission to
63 act;

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

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

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

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

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

78 c. Prescribe procedures or forms for an individual to use
79 in order to inform the board or commission of a desire to be
80 heard, to indicate his or her support, opposition, or neutrality
81 on a proposition, and to indicate his or her designation of a
82 representative to speak for him or her or his or her group on a
83 proposition if he or she so chooses.

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

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88 acting in compliance with this paragraph.

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

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

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

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

108 (c) Conduct occurring ~~which occurs~~ outside the state which
109 would constitute a knowing violation of this section is a
110 misdemeanor of the second degree, punishable as provided in s.
111 775.082 or s. 775.083.

112 (4) Whenever an action has been filed against any board or
113 commission of any state agency or authority or any agency or
114 authority of any county, municipal corporation, or political
115 subdivision to enforce the provisions of this section or to
116 invalidate the actions of any such board, commission, agency, or

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

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

145 (6) All persons subject to paragraph (1) (a) ~~subsection (1)~~

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146 are prohibited from holding meetings at any facility or location
147 that ~~which~~ discriminates on the basis of sex, age, race, creed,
148 color, origin, or economic status or that ~~which~~ operates in such
149 a manner as to unreasonably restrict public access to such a
150 facility.

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

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

167 (a) The entity's attorney shall advise the entity at a
168 public meeting that he or she desires advice concerning the
169 litigation.

170 (b) The subject matter of the meeting shall be confined to
171 settlement negotiations or strategy sessions related to
172 litigation expenditures.

173 (c) The entire session shall be recorded by a certified
174 court reporter. The reporter shall record the times of

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175 commencement and termination of the session, all discussion and
176 proceedings, the names of all persons present at any time, and
177 the names of all persons speaking. No portion of the session
178 shall be off the record. The court reporter's notes shall be
179 fully transcribed and filed with the entity's clerk within a
180 reasonable time after the meeting.

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

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

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