

By the Committees on Governmental Oversight and Accountability;
Rules; and Rules Subcommittee on Ethics and Elections; and
Senators Negrón, Gaetz, and Evers

585-02796-12

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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; requiring that a board or commission that is
22 subject to ch. 120, F.S., adopt rules; providing an
23 effective date.

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

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27 Section 1. Section 286.0114, Florida Statutes, is created
28 to read:

29 286.0114 Public meetings; reasonable opportunity to be

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30 heard; attorney fees.-

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

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

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

52 (b) An official act involving no more than a ministerial
53 act; or

54 (c) 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 adopted

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59 under subsection (5) must be 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; or

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.

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

77 (b) Whenever an action is filed against a board or
78 commission of any state agency or authority of a county,
79 municipal corporation, or political subdivision to enforce the
80 provisions of this section, the court shall assess reasonable
81 attorney fees against such agency or authority if the court
82 determines that the defendant to such action acted in violation
83 of this section. The court may assess reasonable attorney fees
84 against the individual filing such an action if the court finds
85 that the action was filed in bad faith or was frivolous. This
86 paragraph does not apply to a state attorney or his or her duly
87 authorized assistants or any officer charged with enforcing the

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88 provisions of this section.

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

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

96 (5) Each board or commission that is subject to chapter 120
97 shall adopt rules under ss. 120.536(1) and 120.54 to administer
98 this section.

99 Section 2. This act shall take effect July 1, 2012.