

By the Committee on Governmental Oversight and Accountability;
and Senators Negron and Evers

585-01573-13

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1 A bill to be entitled
2 An act relating to public meetings; creating s.
3 286.0114, F.S.; defining "board or commission";
4 requiring that a member of the public be given a
5 reasonable opportunity to be heard by a board or
6 commission before it takes official action on a
7 proposition; providing exceptions; establishing
8 requirements for rules or policies adopted by the
9 board or commission; providing that compliance with
10 the requirements of this section is deemed to have
11 occurred under certain circumstances; providing that a
12 circuit court has jurisdiction to issue an injunction
13 under certain circumstances; authorizing a court to
14 assess reasonable attorney fees in actions filed
15 against a board or commission; providing that an
16 action taken by a board or commission which is found
17 in violation of this section is not void; providing
18 that the act fulfills an important state interest;
19 providing an effective date.

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

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23 Section 1. Section 286.0114, Florida Statutes, is created
24 to read:

25 286.0114 Public meetings; reasonable opportunity to be
26 heard; attorney fees.-

27 (1) For purposes of this section, "board or commission"
28 means a board or commission of any state agency or authority or
29 of any agency or authority of a county, municipal corporation,

585-01573-13

201350c1

30 or political subdivision.

31 (2) Members of the public shall be given a reasonable
32 opportunity to be heard on a proposition before a board or
33 commission. The opportunity to be heard need not occur at the
34 same meeting at which the board or commission takes official
35 action on the proposition if the opportunity occurs at a meeting
36 that satisfies the same notice requirements as the meeting at
37 which the board or commission takes official action on the
38 proposition, occurs at a meeting that is during the
39 decisionmaking process, and is within reasonable proximity in
40 time before the meeting at which the board or commission takes
41 the official action. This section does not prohibit a board or
42 commission from maintaining orderly conduct or proper decorum in
43 a public meeting. The opportunity to be heard is subject to
44 rules or policies adopted by the board or commission, as
45 provided in subsection (4).

46 (3) The requirements in subsection (2) 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;

54 (c) A meeting that is exempt from s. 286.011; or

55 (d) A meeting during which the board or commission is
56 acting in a quasi-judicial capacity. This paragraph does not
57 affect the right of a person to be heard as otherwise provided
58 by law.

585-01573-13

201350c1

59 (4) Rules or policies of a board or commission which govern
60 the opportunity to be heard are limited to those that:

61 (a) Provide guidelines regarding the amount of time an
62 individual has to address the board or commission;

63 (b) Prescribe procedures for allowing representatives of
64 groups or factions on a proposition to address the board or
65 commission, rather than all members of such groups or factions,
66 at meetings in which a large number of individuals wish to be
67 heard;

68 (c) Prescribe procedures or forms for an individual to use
69 in order to inform the board or commission of a desire to be
70 heard; to indicate his or her support, opposition, or neutrality
71 on a proposition; and to indicate his or her designation of a
72 representative to speak for him or her or his or her group on a
73 proposition if he or she so chooses; or

74 (d) Designate a specified period of time for public
75 comment.

76 (5) If a board or commission adopts rules or policies in
77 compliance with this section and follows such rules or policies
78 when providing an opportunity for members of the public to be
79 heard, the board or commission is deemed to be acting in
80 compliance with this section.

81 (6) A circuit court has jurisdiction to issue an injunction
82 for the purpose of enforcing this section upon the filing of an
83 application for such injunction by a citizen of this state.

84 (7) (a) Whenever an action is filed against a board or
85 commission to enforce this section, the court shall assess
86 reasonable attorney fees against such board or commission if the
87 court determines that the defendant to such action acted in

585-01573-13

201350c1

88 violation of this section. The court may assess reasonable
89 attorney fees against the individual filing such an action if
90 the court finds that the action was filed in bad faith or was
91 frivolous. This paragraph does not apply to a state attorney or
92 his or her duly authorized assistants or an officer charged with
93 enforcing this section.

94 (b) Whenever a board or commission appeals a court order
95 that has found the board or commission to have violated this
96 section, and such order is affirmed, the court shall assess
97 reasonable attorney fees for the appeal against such board or
98 commission.

99 (8) An action taken by a board or commission which is found
100 to be in violation of this section is not void as a result of
101 that violation.

102 Section 2. The Legislature finds that a proper and
103 legitimate state purpose is served when members of the public
104 have been given a reasonable opportunity to be heard on a
105 proposition before a board or commission of a state agency or
106 authority, or of an agency or authority of a county, municipal
107 corporation, or political subdivision. Therefore, the
108 Legislature determines and declares that this act fulfills an
109 important state interest.

110 Section 3. This act shall take effect October 1, 2013.