

By the Committees on Rules; and Governmental Oversight and Accountability; and Senators Negrón and Evers

595-02001-13

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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,

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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 is during the decisionmaking process and is within
37 reasonable proximity in time before the meeting at which the
38 board or commission takes the official action. This section does
39 not prohibit a board or commission from maintaining orderly
40 conduct or proper decorum in a public meeting. The opportunity
41 to be heard is subject to rules or policies adopted by the board
42 or commission, as provided in subsection (4).

43 (3) The requirements in subsection (2) do not apply to:

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

49 (b) An official act involving no more than a ministerial
50 act, including, but not limited to, approval of minutes and
51 ceremonial proclamations;

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

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

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

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

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

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; or

72 (d) Designate a specified period of time for public
73 comment.

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

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

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

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88 the court finds that the action was filed in bad faith or was
89 frivolous. This paragraph does not apply to a state attorney or
90 his or her duly authorized assistants or an officer charged with
91 enforcing this section.

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

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

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

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