

By Senator Rader

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1 A bill to be entitled
2 An act relating to public meetings; reenacting and
3 amending s. 286.011, F.S., relating to public
4 meetings; specifying that a board or commission of any
5 entity created by general or special law is subject to
6 public meetings requirements; specifying that a
7 board's or commission's adoption of an ordinance or a
8 code is not binding unless public meetings
9 requirements are met; revising notice requirements
10 applicable to public meetings of a board or
11 commission; providing that a member of the public has
12 the right to speak at a public meeting of a board or
13 commission; specifying circumstances under which a
14 board or commission is not required to allow public
15 comment or may restrict the length of time that a
16 member of the public may speak; requiring members of a
17 board or commission to respond to questions made at
18 public meetings within a specified timeframe;
19 requiring a board or commission to prescribe a form
20 for members of the public wishing to exercise their
21 right to speak; providing civil and criminal penalties
22 for violations of the act; conforming provisions to
23 changes made by the act; repealing s. 286.0114, F.S.,
24 relating to the reasonable opportunity to be heard at
25 public meetings; providing a declaration of important
26 state interest; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 286.011, Florida Statutes, is reenacted
31 and amended to read:

32 286.011 Public meetings and records; public inspection;
33 criminal and civil penalties.—

34 (1) Except as otherwise provided in the State Constitution,
35 all meetings of any board or commission of any state agency or
36 authority, ~~or~~ of any agency or authority of any county,
37 municipal corporation, or political subdivision, or of any
38 entity created by general or special law ~~except as otherwise~~
39 ~~provided in the Constitution,~~ including meetings with or
40 attended by any person elected to such board or commission, but
41 who has not yet taken office, at which official acts are to be
42 taken are declared to be public meetings open to the public for
43 public attendance and participation at all times. The adoption
44 of a, and no resolution, rule, ordinance, code, or other formal
45 action taken is not ~~shall be~~ considered binding except as taken
46 or made at such meeting.

47 (a) The board or commission must provide reasonable notice
48 of all such meetings, which includes publication of all agenda
49 items and any materials or attachments to be distributed at the
50 meeting, at least 3 days before the meeting is scheduled. The
51 board or commission may schedule an emergency meeting if 24
52 hours' notice is provided. The board or commission may amend an
53 agenda after its initial publication, if needed. On the day of a
54 meeting, the board or commission shall maintain at the meeting
55 location at least two copies of the agenda, and any materials or
56 attachments to be distributed at the meeting.

57 (b) A member of the public has the right to speak for at
58 least 3 minutes at a meeting on:

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59 1. A pending agenda item that relates to the appointment of
60 public officers; zoning or land use regulation; the imposition
61 of taxes, fees, and fines; or other interests affecting the
62 rights of residents and businesses within the jurisdiction of
63 the board or commission. The presiding officer or chair may, at
64 his or her discretion, allow a member of the public to speak for
65 longer than 3 minutes.

66 2. Any matter that is not a specific agenda item but within
67 the purview of the jurisdiction of the board or commission. The
68 presiding officer or chair may, at his or her discretion, allow
69 a member of the public to speak for longer than 3 minutes. The
70 presiding officer or chair shall allot time for general public
71 comment as either the first or last item listed on the agenda.

72 (c) The board or commission is not required to allow public
73 comment on items on a consent agenda; the approval of minutes;
74 the presentation of awards, proclamations, and reports;
75 announcements; solely administrative or ministerial matters; or
76 an official act taken to deal with an emergency situation
77 affecting the public health, welfare, and safety.

78 (d) Notwithstanding paragraph (b), the presiding officer or
79 chair may allow a representative of a group in support of or in
80 opposition to an agenda item to speak in lieu of individuals
81 speaking on the same item. If there are 20 or more members of
82 the public requesting to speak on one item, the presiding
83 officer or chair may restrict the amount of time allotted for
84 each speaker to address the board or commission but must allow
85 for at least 1 minute.

86 (e) The board or commission shall respond, either publicly
87 at the meeting or through written correspondence, to any

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88 question made by a member of the public. Any written response
 89 shall be made within 10 days after the meeting and be
 90 incorporated into the minutes of the meeting.

91 (f) The board or commission shall prescribe a form upon
 92 which a member of the public requesting to speak at a meeting
 93 shall complete to provide his or her name and the agenda item or
 94 other matter he or she wishes to comment on.

95 (g) This subsection does not prohibit a board or commission
 96 from maintaining orderly conduct or proper decorum in a public
 97 meeting.

98 (2) The minutes of a meeting of any such board or
 99 commission ~~of any such state agency or authority~~ shall be
 100 promptly recorded, and such records shall be open to public
 101 inspection. A ~~The circuit court has courts of this state shall~~
 102 ~~have~~ jurisdiction to issue injunctions to enforce ~~the purposes~~
 103 ~~of~~ this section upon application by a resident ~~any citizen~~ of
 104 this state.

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

108 (b) Any person who is a member of a board or commission or
 109 of any state agency or authority, of any agency or authority of
 110 any county, municipal corporation, or political subdivision, or
 111 of any entity created by general or special law and who
 112 knowingly violates the provisions of this section by attending a
 113 meeting not held in accordance with this section commits ~~the~~
 114 ~~provisions hereof is guilty of~~ a misdemeanor of the second
 115 degree, punishable as provided in s. 775.082 or s. 775.083.

116 (c) Conduct that ~~which~~ occurs outside the state and that

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117 ~~which~~ would constitute a knowing violation of this section is a
 118 misdemeanor of the second degree, punishable as provided in s.
 119 775.082 or s. 775.083.

120 (4) Whenever an action has been filed against any board or
 121 commission of any state agency or authority, of ~~or~~ any agency or
 122 authority of any county, municipal corporation, or political
 123 subdivision, or of any entity created by general or special law
 124 to enforce the provisions of this section or to invalidate the
 125 actions of any such board or, ~~commission, agency, or authority,~~
 126 ~~which action was~~ taken in violation of this section, if ~~and~~ the
 127 court determines that the defendant or defendants to such action
 128 acted in violation of this section, the court shall assess a
 129 reasonable attorney ~~attorney's~~ fee against such agency,
 130 authority, or entity; however, the court ~~and~~ may assess a
 131 reasonable attorney ~~attorney's~~ fee against the individual filing
 132 such an action if the court finds it was filed in bad faith or
 133 was frivolous. Any fees ~~so~~ assessed may be assessed against the
 134 individual member or members of such board or commission; except
 135 ~~provided,~~ that in any case where the board or commission seeks
 136 the advice of its attorney and such advice is followed, attorney
 137 ~~no such fees may not shall~~ be assessed against the individual
 138 member or members of the board or commission. ~~However,~~ This
 139 subsection does ~~shall~~ not apply to a state attorney or his or
 140 her duly authorized assistants or any officer charged with
 141 enforcing the provisions of this section.

142 (5) Whenever any board or commission of any state agency or
 143 authority, of ~~or~~ any agency or authority of any county,
 144 municipal corporation, or political subdivision, or of any
 145 entity created by general or special law appeals any court order

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146 ~~that which~~ has found the said board ~~or~~ commission, ~~agency, or~~
147 ~~authority~~ to have violated this section, and such order is
148 affirmed, the court shall assess a reasonable attorney
149 ~~attorney's~~ fee for the appeal against the such board ~~or~~
150 commission of such agency, ~~or~~ authority, or entity. Any fees ~~so~~
151 assessed may be assessed against the individual member or
152 members of such board or commission; except provided, that in
153 any case where the board or commission seeks the advice of its
154 attorney and such advice is followed, attorney ~~no such~~ fees may
155 not shall be assessed against the individual member or members
156 of the board or commission.

157 (6) All persons subject to subsection (1) are prohibited
158 from holding meetings at any facility or location that which
159 discriminates on the basis of sex, age, race, creed, color,
160 origin, or economic status or which operates in such a manner as
161 to unreasonably restrict public access to such a facility.

162 (7) Whenever any member of any board or commission of any
163 state agency or authority, of ~~or~~ any agency or authority of any
164 county, municipal corporation, or political subdivision, or of
165 any entity created by general or special law is charged with a
166 violation of this section and is subsequently acquitted, the
167 board or commission is authorized to reimburse the said member
168 for any portion of his or her reasonable attorney ~~attorney's~~
169 fees.

170 (8) Notwithstanding ~~the provisions of~~ subsection (1), any
171 board or commission of any state agency or authority, of ~~or~~ any
172 agency or authority of any county, municipal corporation, or
173 political subdivision, or of any entity created by general or
174 special law, and the chief administrative or executive officer

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175 of such ~~the~~ governmental entity, may meet in private with the
176 entity's attorney to discuss pending litigation to which the
177 agency, authority, or entity is presently a party before a court
178 or administrative agency, if ~~provided that~~ the following
179 conditions are met:

180 (a) The entity's attorney shall advise the entity at a
181 public meeting that he or she desires advice concerning the
182 litigation.

183 (b) The subject matter of the meeting is ~~shall be~~ confined
184 to settlement negotiations or strategy sessions related to
185 litigation expenditures.

186 (c) The entire session is ~~shall be~~ recorded by a certified
187 court reporter. The reporter shall record the times of
188 commencement and termination of the session, all discussion and
189 proceedings, the names of all persons present at any time, and
190 the names of all persons speaking. A ~~No~~ portion of the session
191 may not ~~shall~~ be held off the record. The court reporter's notes
192 must ~~shall~~ be fully transcribed and filed with the entity's
193 clerk within a reasonable time after the meeting.

194 (d) The entity shall give reasonable public notice of the
195 time and date of the attorney-client session and the names of
196 persons who will be attending the session. The session shall
197 commence at an open meeting at which the persons chairing the
198 meeting shall announce the commencement and estimated length of
199 the attorney-client session and the names of the persons
200 attending. At the conclusion of the attorney-client session, the
201 meeting shall be reopened, and the person chairing the meeting
202 shall announce the termination of the session.

203 (e) The transcript shall be made part of the public record

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204 upon conclusion of the litigation.

205 Section 2. Section 286.0114, Florida Statutes, is repealed.

206 Section 3. The Legislature finds that a proper and
207 legitimate state purpose is served when members of the public
208 are afforded the right to speak at public meetings before a
209 board or commission of a state agency or authority, of the
210 agency or authority of a county, municipal corporation, or
211 political subdivision, or of any entity created by general or
212 special law. Therefore, the Legislature determines and declares
213 that this act fulfills an important state interest.

214 Section 4. This act shall take effect July 1, 2017.