

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 on
20 which members of the public wishing to exercise their
21 right to speak must provide certain information;
22 providing civil and criminal penalties for violations
23 of the act; conforming provisions to changes made by
24 the act; repealing s. 286.0114, F.S., relating to the
25 reasonable opportunity to be heard at public meetings;
26 providing a declaration of important state interest;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 286.011, Florida Statutes, is reenacted and amended to read:

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

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

(a) The board or commission must provide at least 3 days' advance ~~reasonable~~ notice of all such meetings, and such notice must include publication of all agenda items and any materials or attachments that will be distributed at the meeting. The board or commission may schedule an emergency meeting if 24 hours' advance notice is provided. If necessary, the board or commission may amend a meeting agenda after its initial publication. On the day of a meeting, the board or commission shall maintain at least two copies of the agenda, and any materials or attachments to be distributed at the meeting, at the meeting location.

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59 (b) A member of the public has the right to speak for at
60 least 3 minutes at a meeting and may address:

61 1. A pending agenda item that relates to the appointment of
62 public officers; zoning or land use regulation; the imposition
63 of taxes, fees, and fines; or other interests affecting the
64 rights of residents and businesses within the jurisdiction of
65 the board or commission; or

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 shall allot time for general public
69 comment as either the first or last item listed on the agenda.

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

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

84 (e) The board or commission shall respond, either publicly
85 at the meeting or through written correspondence, to any
86 question made by a member of the public. Any written response
87 must be made within 10 days after the meeting and incorporated

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88 into the minutes of the meeting.

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

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

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

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

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

114 (c) Conduct that ~~which~~ occurs outside the state and that
115 ~~which~~ would constitute a knowing violation of this section is a
116 misdemeanor of the second degree, punishable as provided in s.

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117 775.082 or s. 775.083.

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

140 (5) Whenever any board or commission of any state agency or
141 authority; of ~~or~~ any agency or authority of any county,
142 municipal corporation, or political subdivision; or of any
143 entity created by general or special law appeals any court order
144 that ~~which~~ has found the said board or, ~~commission, agency, or~~
145 ~~authority~~ to have violated this section, and such order is

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

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

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

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

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175 entity's attorney to discuss pending litigation to which the
176 entity is presently a party before a court or administrative
177 agency, ~~if provided that~~ the following conditions are met:

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

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

184 (c) The entire session is ~~shall be~~ recorded by a certified
185 court reporter. The reporter shall record the times of
186 commencement and termination of the session, all discussion and
187 proceedings, the names of all persons present at any time, and
188 the names of all persons speaking. No portion of the session may
189 ~~shall~~ be held off the record. The court reporter's notes must
190 ~~shall~~ be fully transcribed and filed with the entity's clerk
191 within a reasonable time after the meeting.

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

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

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

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

212 Section 4. This act shall take effect July 1, 2018.