

1                   A bill to be entitled  
 2           An act relating to public meetings and records;  
 3           amending s. 286.011, F.S.; expanding an exemption from  
 4           public meetings requirements to allow specified  
 5           entities to meet in private with an attorney to  
 6           discuss imminent litigation if certain conditions are  
 7           met; requiring the entity's attorney to identify the  
 8           name of the potential claimant or litigant at a public  
 9           meeting; requiring the transcript of a private meeting  
 10          concerning imminent litigation to be made public upon  
 11          the occurrence of a certain circumstance; specifying  
 12          when litigation is considered imminent; providing for  
 13          future legislative review and repeal of the exemption;  
 14          providing a statement of public necessity; providing  
 15          an effective date.

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

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 19           Section 1. Subsection (8) of section 286.011, Florida  
 20   Statutes, is amended to read:

21           286.011 Public meetings and records; public inspection;  
 22   criminal and civil penalties.—

23           (8) (a) Notwithstanding ~~the provisions of~~ subsection (1),  
 24   any board or commission of any state agency or authority or any  
 25   agency or authority of any county, municipal corporation, or

26 | political subdivision, and the chief administrative or executive  
27 | officer of the governmental entity, is exempt from this section  
28 | and s. 24(b), Art. I of the State Constitution for the limited  
29 | purpose of meeting ~~may meet~~ in private with the entity's  
30 | attorney to discuss imminent or pending litigation to which the  
31 | entity is or may in the foreseeable future be ~~presently~~ a party  
32 | before a court or administrative agency, provided that the  
33 | following conditions are met:

34 |       1.(a) The entity's attorney shall advise the entity at a  
35 | public meeting that he or she desires advice concerning the  
36 | imminent or pending litigation. For imminent litigation, the  
37 | entity's attorney shall identify the name of the potential  
38 | claimant or litigant.

39 |       2.(b) The subject matter of the meeting shall be confined  
40 | to settlement negotiations or strategy sessions related to  
41 | litigation expenditures.

42 |       3.(c) The entire session shall be recorded by a certified  
43 | court reporter. The reporter shall record the times of  
44 | commencement and termination of the session, all discussion and  
45 | proceedings, the names of all persons present at any time, and  
46 | the names of all persons speaking. No portion of the session  
47 | shall be off the record. The court reporter's notes shall be  
48 | fully transcribed and filed with the entity's clerk within a  
49 | reasonable time after the meeting.

50 |       4.(d) The entity shall give reasonable public notice of

51 the time and date of the attorney-client session and the names  
52 of persons who will be attending the session. The session shall  
53 commence at an open meeting at which the persons chairing the  
54 meeting shall announce the commencement and estimated length of  
55 the attorney-client session and the names of the persons  
56 attending. At the conclusion of the attorney-client session, the  
57 meeting shall be reopened, and the person chairing the meeting  
58 shall announce the termination of the session.

59 ~~5.(e)~~ The transcript shall be made part of the public  
60 record upon conclusion of the litigation. If imminent litigation  
61 does not commence, the transcript shall be made part of the  
62 public record within a reasonable time after the matter  
63 underlying the imminent litigation is resolved or upon the  
64 expiration of the statute of limitations applicable to the  
65 matter underlying the imminent litigation, whichever occurs  
66 first.

67 (b) Litigation is considered imminent when the entity has  
68 received notice of a claim or demand by a party threatening  
69 litigation before a court or administrative agency.

70 (c) This subsection is subject to the Open Government  
71 Sunset Review Act in accordance with s. 119.15 and shall stand  
72 repealed on October 2, 2023, unless reviewed and saved from  
73 repeal through reenactment by the Legislature.

74 Section 2. The Legislature finds that it is a public  
75 necessity to expand the exemption from public meetings

76 requirements currently applicable to meetings at which any board  
77 or commission of any state agency or authority or any agency or  
78 authority of any county, municipal corporation, or political  
79 subdivision, and the chief administrative or executive officer  
80 of the governmental entity, may meet in private with the  
81 entity's attorneys to discuss pending litigation to which the  
82 entity is presently a party before a court or administrative  
83 agency to include private meetings with the entity's attorneys  
84 to discuss imminent litigation to which the entity may in the  
85 foreseeable future be a party before a court or administrative  
86 agency. Expanding this exemption is necessary to allow a  
87 governmental entity to privately prepare for threatened  
88 litigation by obtaining legal advice, exploring and developing  
89 relevant facts, and considering an early settlement or  
90 discussing other possible resolutions in order to make better-  
91 informed decisions. The Legislature also finds that expanding  
92 this public meetings exemption will help ensure that  
93 governmental entities receive fair treatment during the judicial  
94 and administrative process.

95 Section 3. This act shall take effect July 1, 2018.