

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.