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.
16	
17	Be It Enacted by the Legislature of the State of Florida:
18	
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) <u>(a)</u> 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
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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 entity is or may in the foreseeable future be presently a party 31 32 before a court or administrative agency, provided that the 33 following conditions are met:

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

38 <u>claimant or litigant.</u>

39 <u>2.(b)</u> 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 shall be off the record. The court reporter's notes shall be 47 48 fully transcribed and filed with the entity's clerk within a reasonable time after the meeting. 49

50

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

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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 shall announce the termination of the session. 58

59 5.(e) The transcript shall be made part of the public 60 record upon conclusion of the litigation. If imminent litigation does not commence, the transcript shall be made part of the 61 62 public record within a reasonable time after the matter underlying the imminent litigation is resolved or upon the 63 64 expiration of the statute of limitations applicable to the 65 matter underlying the imminent litigation, whichever occurs 66 first. 67 Litigation is considered imminent when the entity has (b)

68 <u>received notice of a claim or demand by a party threatening</u>
69 <u>litigation before a court or administrative agency.</u>

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

necessity to expand the exemption from public meetings

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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. In addition, the Legislature finds that it is a public
87	necessity to exempt the transcript of such exempt meetings from
88	public records requirements. These public meetings and public
89	records exemptions are necessary to allow a governmental entity
90	to privately prepare for threatened and pending litigation by
91	obtaining legal advice, exploring and developing relevant facts,
92	and considering an early settlement or discussing other possible
93	resolutions in order to make better-informed decisions. The
94	Legislature also finds that these public meetings and public
95	records exemptions will help ensure that governmental entities
96	receive fair treatment during the judicial and administrative
97	process.
98	Section 3. This act shall take effect July 1, 2018.

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