

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

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

Section 1. Section 286.011, Florida Statutes, is 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 at all times. The adoption of a, and no resolution, rule, ordinance, or code or any other formal action taken is not shall ~~be considered~~ binding except as adopted or taken ~~or made~~ at such meeting.

(a) The board or commission must provide ~~reasonable~~ notice of all such meetings, which includes publication of the agenda and any materials or attachments to be distributed at the meeting, at least 3 days before the meeting occurs, except that the board or commission must provide notice of an emergency

51 meeting at least 24 hours before the emergency meeting occurs.
52 The board or commission may amend an agenda after its initial
53 publication. At least two copies of the agenda and any materials
54 or attachments to be distributed at the meeting must be
55 available for public inspection at the meeting location on the
56 day of the meeting.

57 (b)1. The presiding officer or chair shall allot time for
58 public comment as either the first or last item listed on the
59 agenda. Each member of the public has the right to speak at a
60 meeting for at least 3 minutes regarding:

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

66 b. Any matter that is not a specific agenda item but is
67 within the jurisdiction of the board or commission.

68 2. The presiding officer or chair may, at his or her
69 discretion, allow a member of the public to speak for longer
70 than 3 minutes.

71 3. Notwithstanding subparagraph 1., when 20 or more
72 members of the public request to speak on one agenda item the
73 presiding officer or chair may restrict the amount of time
74 allotted for each speaker to 1 minute.

75 4. The presiding officer or chair may allow an individual

76 | to speak on behalf of a group.

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

83 | (d) The board or commission shall respond, either publicly
84 | at the meeting or through written correspondence, to any
85 | question made by a member of the public. A response that is made
86 | through written correspondence must be provided within 10 days
87 | after the meeting and be incorporated into the minutes of the
88 | meeting.

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

93 | (f) This subsection does not prohibit a board or
94 | commission from maintaining orderly conduct or proper decorum in
95 | a public 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 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 and who
 110 knowingly violates the provisions of this section by attending a
 111 meeting not held in accordance with this section commits ~~the~~
 112 ~~provisions hereof is guilty of~~ a misdemeanor of the second
 113 degree, 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.
 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, commission, agency, ~~or~~ authority, or
 124 entity, ~~which action was~~ taken in violation of this section, and
 125 the court determines that the defendant or defendants to such

126 | action acted in violation of this section, the court shall
 127 | assess a reasonable attorney ~~attorney's~~ fee against such agency,
 128 | authority, or entity, and may assess a reasonable attorney
 129 | ~~attorney's~~ fee against the individual filing such an action if
 130 | the court finds it was filed in bad faith or was frivolous. Any
 131 | fees ~~se~~ assessed may be assessed against the individual member
 132 | or members of such board or commission; except provided, that in
 133 | any case where the board or commission seeks the advice of its
 134 | attorney and such advice is followed, attorney ~~no such~~ fees may
 135 | not shall be assessed against the individual member or members
 136 | of the board or commission. ~~However,~~ This subsection does shall
 137 | not apply to a state attorney or his or her duly authorized
 138 | assistants or any officer charged with enforcing the provisions
 139 | of this section.

140 | (5) Whenever any board or commission of any state agency
 141 | or 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, commission, agency, or
 145 | authority to have violated this section, and such order is
 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 ~~se~~
 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 which operates in such a manner as
 159 to unreasonably restrict public access to such a facility.

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

168 (8) Notwithstanding ~~the provisions of~~ subsection (1), any
 169 board or commission of any state agency or authority, of ~~or~~ any
 170 agency or authority of any county, municipal corporation, or
 171 political subdivision, or of any entity created by general or
 172 special law, and the chief administrative or executive officer
 173 of such ~~the~~ governmental entity, may meet in private with the
 174 entity's attorney to discuss pending litigation to which the
 175 governmental entity is presently a party before a court or

176 administrative agency, if ~~provided that~~ the following conditions
177 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. A ~~No~~ portion of the session
189 may not ~~shall~~ be held off the record. The court reporter's notes
190 must ~~shall~~ be fully transcribed and filed with the entity's
191 clerk 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 shall be reopened, and the person chairing the meeting
200 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
204 repealed.

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

213 Section 4. This act shall take effect July 1, 2019.