

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 such 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 such a board or
11 commission; providing that a member of the public has
12 the right to speak at a public meeting of such a board
13 or commission; specifying circumstances under which
14 such a board or commission is not required to allow
15 public comment or may restrict the length of time that
16 a member of the public may speak; requiring members of
17 such a board or commission to respond to questions
18 made at public meetings within a specified timeframe;
19 requiring that such a board or commission prescribe a
20 form on which members of the public wishing to
21 exercise their right to speak must provide certain
22 information; providing civil and criminal penalties
23 for violations of the act; conforming provisions to
24 changes made by the act; repealing s. 286.0114, F.S.,
25 relating to the reasonable opportunity to be heard at
26 public meetings; providing a declaration of important
27 state interest; 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, a rule, an ordinance, or a code, or other formal action taken, is not ~~shall be~~ considered binding except as taken or made at such a 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 the meeting location at least two copies of the agenda and any materials or attachments to be distributed at the meeting.

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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 on such matters as either the first or last item listed
70 on the agenda.

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

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

85 (e) The board or commission shall respond, either publicly
86 at the meeting or through written correspondence, to any
87 question made by a member of the public. Any written response

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88 must be made within 10 days after the meeting and incorporated
89 into the minutes of the meeting.

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

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

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

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

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

115 (c) Conduct that ~~which~~ occurs outside the state and that
116 ~~which~~ would constitute a knowing violation of this section is a

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117 misdemeanor of the second degree, punishable as provided in s.
118 775.082 or s. 775.083.

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

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

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

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

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

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

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175 of such ~~the~~ governmental entity, may meet in private with the
176 entity's attorney to discuss pending litigation to which the
177 entity is presently a party before a court or administrative
178 agency, if ~~provided that~~ the following conditions are met:

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

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

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

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

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

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204 Section 2. Section 286.0114, Florida Statutes, is 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.