

By Senator Negrón

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1 A bill to be entitled
2 An act relating to public meetings; amending s.
3 286.011, F.S.; providing a right for members of the
4 public to be heard at meetings of certain governmental
5 boards and commissions; prescribing conditions
6 qualifying, and exceptions to, the right; providing
7 for the adoption of rules governing the conduct of,
8 and behavior at, the meetings; providing an effective
9 date.

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

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13 Section 1. Section 286.011, Florida Statutes, is amended to
14 read:

15 286.011 Public meetings and records; public inspection;
16 criminal and civil penalties.—

17 (1) (a) All meetings of any board or commission of any state
18 agency or authority or of any agency or authority of any county,
19 municipal corporation, or political subdivision, except as
20 otherwise provided in the Constitution, at which official acts
21 are to be taken:

22 1. Are declared to be public meetings open to the public at
23 all times; ~~7~~ and

24 2. Shall include an opportunity for members of the public
25 to be heard before or during consideration of any agenda item on
26 which an official act will be taken, subject to reasonable rules
27 or policies adopted by the board or commission to ensure the
28 orderly conduct of a public meeting.

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30 No resolution, rule, or formal action shall be considered
31 binding except as taken or made at such meeting. The board or
32 commission must provide reasonable notice of all such meetings.

33 (b) The requirements of subparagraph (a)2. do not apply to:

34 1. An official act that must be taken to deal with an
35 emergency situation affecting the public health, welfare, or
36 safety, when compliance with the requirements would cause an
37 unreasonable delay in the ability of the board or commission to
38 act; or

39 2. An official act involving no more than a ministerial
40 act.

41 (c) A board or commission subject to chapter 120 shall
42 adopt rules under ss. 120.536(1) and 120.54 as provided in
43 subparagraph (a)2. which may:

44 1. Limit the time an individual has to address the board or
45 commission;

46 2. Require, at meetings in which a large number of
47 individuals may wish to be heard, that a representative of a
48 group or faction on an issue, rather than all of the members of
49 the group or faction, address the board or commission; or

50 3. Prescribe procedures or forms for an individual to use
51 in order to inform the board or commission of a desire to be
52 heard.

53 (2) The minutes of a meeting of any such board or
54 commission of any such state agency or authority shall be
55 promptly recorded, and such records shall be open to public
56 inspection. The circuit courts of this state shall have
57 jurisdiction to issue injunctions to enforce the purposes of
58 this section upon application by any citizen of this state.

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59 (3) (a) Any public officer who violates any provision of
60 this section is guilty of a noncriminal infraction, punishable
61 by fine not exceeding \$500.

62 (b) Any person who is a member of a board or commission or
63 of any state agency or authority of any county, municipal
64 corporation, or political subdivision who knowingly violates the
65 provisions of this section by attending a meeting not held in
66 accordance with the provisions hereof is guilty of a misdemeanor
67 of the second degree, punishable as provided in s. 775.082 or s.
68 775.083.

69 (c) Conduct which occurs outside the state which would
70 constitute a knowing violation of this section is a misdemeanor
71 of the second degree, punishable as provided in s. 775.082 or s.
72 775.083.

73 (4) Whenever an action has been filed against any board or
74 commission of any state agency or authority or any agency or
75 authority of any county, municipal corporation, or political
76 subdivision to enforce the provisions of this section or to
77 invalidate the actions of any such board, commission, agency, or
78 authority, which action was taken in violation of this section,
79 and the court determines that the defendant or defendants to
80 such action acted in violation of this section, the court shall
81 assess a reasonable attorney's fee against such agency, and may
82 assess a reasonable attorney's fee against the individual filing
83 such an action if the court finds it was filed in bad faith or
84 was frivolous. Any fees so assessed may be assessed against the
85 individual member or members of such board or commission;
86 provided, that in any case where the board or commission seeks
87 the advice of its attorney and such advice is followed, no such

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88 fees shall be assessed against the individual member or members
89 of the board or commission. However, this subsection shall not
90 apply to a state attorney or his or her duly authorized
91 assistants or any officer charged with enforcing the provisions
92 of this section.

93 (5) Whenever any board or commission of any state agency or
94 authority or any agency or authority of any county, municipal
95 corporation, or political subdivision appeals any court order
96 which has found said board, commission, agency, or authority to
97 have violated this section, and such order is affirmed, the
98 court shall assess a reasonable attorney's fee for the appeal
99 against such board, commission, agency, or authority. Any fees
100 so assessed may be assessed against the individual member or
101 members of such board or commission; provided, that in any case
102 where the board or commission seeks the advice of its attorney
103 and such advice is followed, no such fees shall be assessed
104 against the individual member or members of the board or
105 commission.

106 (6) All persons subject to subsection (1) are prohibited
107 from holding meetings at any facility or location which
108 discriminates on the basis of sex, age, race, creed, color,
109 origin, or economic status or which operates in such a manner as
110 to unreasonably restrict public access to such a facility.

111 (7) Whenever any member of any board or commission of any
112 state agency or authority or any agency or authority of any
113 county, municipal corporation, or political subdivision is
114 charged with a violation of this section and is subsequently
115 acquitted, the board or commission is authorized to reimburse
116 said member for any portion of his or her reasonable attorney's

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117 fees.

118 (8) Notwithstanding the provisions of subsection (1), any
119 board or commission of any state agency or authority or any
120 agency or authority of any county, municipal corporation, or
121 political subdivision, and the chief administrative or executive
122 officer of the governmental entity, may meet in private with the
123 entity's attorney to discuss pending litigation to which the
124 entity is presently a party before a court or administrative
125 agency, provided that the following conditions are met:

126 (a) The entity's attorney shall advise the entity at a
127 public meeting that he or she desires advice concerning the
128 litigation.

129 (b) The subject matter of the meeting shall be confined to
130 settlement negotiations or strategy sessions related to
131 litigation expenditures.

132 (c) The entire session shall be recorded by a certified
133 court reporter. The reporter shall record the times of
134 commencement and termination of the session, all discussion and
135 proceedings, the names of all persons present at any time, and
136 the names of all persons speaking. No portion of the session
137 shall be off the record. The court reporter's notes shall be
138 fully transcribed and filed with the entity's clerk within a
139 reasonable time after the meeting.

140 (d) The entity shall give reasonable public notice of the
141 time and date of the attorney-client session and the names of
142 persons who will be attending the session. The session shall
143 commence at an open meeting at which the persons chairing the
144 meeting shall announce the commencement and estimated length of
145 the attorney-client session and the names of the persons

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146 attending. At the conclusion of the attorney-client session, the
147 meeting shall be reopened, and the person chairing the meeting
148 shall announce the termination of the session.

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

151 Section 2. This act shall take effect July 1, 2011.