

By Senator Simmons

10-00699B-15

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1 A bill to be entitled

2 An act relating to strategic lawsuits against public  
3 participation; amending s. 768.295, F.S.; removing a  
4 short title; providing that legislative intent  
5 includes the protection of specified forms of free  
6 speech; defining the phrase "free speech in connection  
7 with public issues"; conforming provisions to changes  
8 made by the act; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Section 768.295, Florida Statutes, is amended to  
13 read:

14 768.295 Strategic Lawsuits Against Public Participation  
15 (SLAPP) suits by governmental entities prohibited.—

16 (1) ~~This section may be cited as the "Citizen Participation~~  
17 ~~in Government Act."~~

18 (2) It is the intent of the Legislature to protect the  
19 right of Florida's citizens to exercise their rights of free  
20 speech in connection with public issues, and their rights to  
21 peacefully assemble, instruct their representatives, and  
22 petition for redress of grievances before the various  
23 governmental entities of this state as protected by the First  
24 Amendment to the United States Constitution and s. 5, Art. I of  
25 the State Constitution. ~~The Legislature recognizes that~~  
26 "Strategic Lawsuits Against Public Participation" or "SLAPP"  
27 suits, as they are typically called, have increased over the  
28 last 30 years and are mostly filed by private industry and  
29 individuals. However, It is the public policy of this state that

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30 a person or governmental entity ~~government entities~~ not engage  
 31 in SLAPP suits because such actions are inconsistent with the  
 32 right of individuals to exercise their constitutional rights of  
 33 free speech in connection with public issues ~~participate in the~~  
 34 ~~state's institutions of government~~. Therefore, the Legislature  
 35 finds and declares that prohibiting such lawsuits as herein  
 36 described ~~by governmental entities~~ will preserve this  
 37 fundamental state policy, preserve the constitutional rights of  
 38 Florida citizens, and assure the continuation of representative  
 39 government in this state. It is the intent of the Legislature  
 40 that such lawsuits be expeditiously disposed of by the courts.

41 ~~(2)(3)~~ As used in this section, the phrase or term:

42 (a) "Free speech in connection with public issues" means  
 43 any written or oral statement that is protected under applicable  
 44 law and made before a governmental entity in connection with an  
 45 issue under consideration or review by a governmental entity, or  
 46 in connection with the publication of a play, movie broadcast,  
 47 or other similar work of art.

48 (b) "Governmental entity" or "government entity" means the  
 49 state, including the executive, legislative, and the judicial  
 50 branches of government and the independent establishments of the  
 51 state, counties, municipalities, corporations primarily acting  
 52 as instrumentalities of the state, counties, or municipalities,  
 53 districts, authorities, boards, commissions, or any agencies  
 54 thereof.

55 ~~(3)(4)~~ A person or ~~No~~ governmental entity in this state may  
 56 not shall file or cause to be filed, through its employees or  
 57 agents, any lawsuit, cause of action, claim, cross-claim, or  
 58 counterclaim against another ~~a~~ person or entity without merit

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59 and solely because such person or entity has exercised the  
60 constitutional right of free speech in connection with a public  
61 issue, or right to peacefully assemble, ~~the right~~ to instruct  
62 representatives of government, ~~or and the right~~ to petition for  
63 redress of grievances before the various governmental entities  
64 of this state, as protected by the First Amendment to the United  
65 States Constitution and s. 5, Art. I of the State Constitution.

66 (4)~~(5)~~ A person or entity sued by a governmental entity or  
67 another person in violation of this section has a right to an  
68 expeditious resolution of a claim that the suit is in violation  
69 of this section. A person or entity may move ~~petition~~ the court  
70 for an order dismissing the action or granting final judgment in  
71 favor of that person or entity. The person or entity ~~petitioner~~  
72 may file a motion for summary judgment, together with  
73 supplemental affidavits, seeking a determination that the  
74 claimant's or governmental entity's lawsuit has been brought in  
75 violation of this section. The claimant or governmental entity  
76 shall thereafter file a ~~its~~ response and any supplemental  
77 affidavits. As soon as practicable, the court shall set a  
78 hearing on the ~~petitioner's~~ motion, which shall be held at the  
79 earliest possible time after the filing of the claimant's or  
80 governmental entity's response. The court may award, subject to  
81 the limitations in s. 768.28, the party sued by a governmental  
82 entity or person actual damages arising from the governmental  
83 entity's or person's violation of this section ~~act~~. The court  
84 shall award the prevailing party reasonable attorney's fees and  
85 costs incurred in connection with a claim that an action was  
86 filed in violation of this section.

87 (5)~~(6)~~ In any case filed by a governmental entity which is

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88 found by a court to be in violation of this section, the  
89 governmental entity shall report such finding and provide a copy  
90 of the court's order to the Attorney General no later than 30  
91 days after such order is final. The Attorney General shall  
92 report any violation of this section by a governmental entity to  
93 the Cabinet, the President of the Senate, and the Speaker of the  
94 House of Representatives. A copy of such report shall be  
95 provided to the affected governmental entity.

96 Section 2. This act shall take effect July 1, 2015.