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LEGISLATIVE ACTION

Senate

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House

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The Committee on Rules (Steube) recommended the following:

1           **Senate Substitute for Amendment (851136) (with title**  
2 **amendment)**

3  
4           Delete lines 27 - 90

5 and insert:

6 officer of the governmental entity or his or her designee, is  
7 exempt from this section and s. 24(b), Art. I of the State  
8 Constitution for the limited purpose of meeting ~~may meet~~ in  
9 private with the entity's attorneys and technical experts  
10 ~~attorney~~ to discuss imminent or pending litigation to which the  
11 entity is or may in the foreseeable future be ~~presently~~ a party



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12 before a court or administrative agency, provided that the  
13 following conditions are met:

14 1.(a) The entity's attorney shall advise the entity at a  
15 public meeting that he or she desires advice concerning the  
16 imminent or pending litigation. For imminent litigation, the  
17 entity's attorney shall identify the name of the potential  
18 claimant or litigant.

19 2.(b) The subject matter of the meeting must ~~shall~~ be  
20 confined to settlement negotiations or strategy sessions related  
21 to litigation expenditures.

22 3.(c) The entire session shall be recorded by a certified  
23 court reporter. The reporter shall record the times of  
24 commencement and termination of the session, all discussion and  
25 proceedings, the names of all persons present at any time, and  
26 the names of all persons speaking. No portion of the session may  
27 ~~shall~~ be off the record. The court reporter's notes must ~~shall~~  
28 be fully transcribed and filed with the entity's clerk within a  
29 reasonable time after the meeting.

30 4.(d) The entity shall give reasonable public notice of the  
31 time and date of the attorney-client session and the names of  
32 persons who will be attending the session. The session must  
33 ~~shall~~ commence at an open meeting at which the persons chairing  
34 the meeting shall announce the commencement and estimated length  
35 of the attorney-client session and the names of the persons  
36 attending. At the conclusion of the attorney-client session, the  
37 meeting must ~~shall~~ be reopened, and the person chairing the  
38 meeting shall announce the termination of the session.

39 5.(e) The transcript must ~~shall~~ be made part of the public  
40 record upon conclusion of the litigation. If imminent litigation



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41 does not commence, the transcript must be made part of the  
42 public record within a reasonable time after the matter  
43 underlying the imminent litigation is resolved or upon the  
44 expiration of the statute of limitations applicable to the  
45 matter underlying the imminent litigation, whichever occurs  
46 first.

47 (b) Litigation is considered imminent when the entity has  
48 received notice of a claim or demand by a party threatening  
49 litigation before a court or administrative agency.

50 (c) This subsection is subject to the Open Government  
51 Sunset Review Act in accordance with s. 119.15 and shall stand  
52 repealed on October 2, 2023, unless reviewed and saved from  
53 repeal through reenactment by the Legislature.

54 Section 2. The Legislature finds that it is a public  
55 necessity to expand the exemption from public meetings  
56 requirements currently applicable to meetings at which any board  
57 or commission of any state agency or authority, or any agency or  
58 authority of any county, municipal corporation, or political  
59 subdivision, and the chief administrative or executive officer  
60 of the governmental entity meet in private with the entity's  
61 attorneys to discuss pending litigation to which the entity is  
62 presently a party before a court or administrative agency. The  
63 exemption is expanded to include such meetings when the designee  
64 of the chief administrative or executive officer of the  
65 governmental entity is present, when technical experts of the  
66 entity are present, and when such meetings are related to  
67 certain imminent litigation. In addition, the Legislature finds  
68 that it is a public necessity to exempt the transcript of such  
69 exempt meetings from public records requirements. These public



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70 meetings and public records exemptions are necessary to allow a  
71 governmental entity to privately prepare for threatened  
72 litigation by obtaining legal advice, exploring and developing  
73 relevant facts, and considering an early settlement or  
74 discussing other possible resolutions in order to make better-  
75 informed decisions. The Legislature also finds that these public  
76 meetings and public records exemptions will help ensure that  
77 governmental entities receive

78  
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete line 5

82 and insert:

83 entities to meet in private with attorneys and  
84 technical experts to