

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 355 Pasco County
SPONSOR(S): Zika
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	11 Y, 0 N	Moehrle	Miller
2) State Affairs Committee	24 Y, 0 N	Moehrle	Williamson

SUMMARY ANALYSIS

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public. Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken must be open to the public at all times. The board or commission must provide reasonable notice of all public meetings. Although reasonable notice must be provided, the Florida Statutes do not require publication of meeting agendas.

Chapter 70-876, Laws of Fla., requires the Pasco County Board of County Commissioners (BOCC) to make its agenda for any official meeting available to the public no later than the Friday before any such meeting. Any amendment, deletion, or insertion to such agenda after it has been made publicly available can only be made by the board upon a declaration of emergency. Actions taken by the Pasco County BOCC are valid only if the board complies with this law.

The bill repeals the local law requiring the Pasco County BOCC to notice its meeting agenda on the Friday before an official meeting. The board would continue to be subject to the general laws governing notices for public meetings of county commissions.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Meetings

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.¹ Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law” or “Sunshine Law,” further requires all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken must be open to the public at all times.² The board or commission must provide reasonable notice of all public meetings.³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public’s access to the facility.⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.⁵

Due Public Notice – Board of County Commissioners

Once a board of county commissioners (BOCC) gives due public notice, meetings of the BOCC may be held at any appropriate public place in the county.⁶ Presently, there is no definition of “reasonable” or “due public notice” in Florida Statutes. The Florida Attorney General has opined that there is no precise definition or formula of what constitutes “due notice” for a public meeting.⁷ Rather, due notice is a relative term, “the meaning and sufficiency of which can be ascertained only in reference to the particular facts and circumstances upon which it bears.”⁸ Notice that is adequate under normal circumstances may be impossible or impractical in emergency situations. The purpose of notice is to apprise the public of the “pendency of matters which may affect their personal or property rights and afford them the opportunity to appear and present their views.”⁹ The notice must reasonably convey all necessary information and must afford a reasonable period of time for interested persons to appear at the meeting.¹⁰

Public Meeting Agendas

A meeting agenda plots the orderly conduct of business to be taken at a properly noticed public meeting as provided by a county or municipality charter or ordinance.¹¹ Current law does not require a posted agenda for a public meeting. Section 286.011, F.S., neither addresses the need for public entities to post meeting agendas nor does it require items be placed on an agenda before being considered at a public meeting. One court observed: “[a]lthough the drawing up of an agenda is a matter related to a noticed public meeting, it essentially is an integral part of the actual mechanics and

¹ Art. I, s. 24(b), Fla. Const.

² S. 286.011(1), F.S.

³ *Id.*

⁴ S. 286.011(6), F.S.

⁵ S. 286.011(2), F.S.

⁶ S. 125.001(1), F.S.

⁷ 73-170 Fla. Op. Att’y Gen. 1 (1973).

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Yarbrough v. Young*, 462 So. 2d 515 (Fla. 3d DCA 1985) (holding that mayor announcing special council meeting three days prior to the meeting constituted due public notice as evidenced by the fact that all but one commissioner attended the meeting, and city staff and members of the local media attended the meeting).

¹¹ *Hough v. Stemberge*, 278 So. 2d 288, 290 (Fla. 3d DCA 1973).

procedures for conducting that meeting and, therefore, aptly relegated to local practices and procedures as prescribed by city charters and ordinances.”¹² Mandating that items appear on an agenda before they could be heard at a meeting “would foreclose easy access to such meeting to members of the general public who wish to bring specific issues before the governing body.”¹³

Pasco County Meeting Agendas

Chapter 70-876, Laws of Fla., requires the Pasco County BOCC to provide public notice of its agenda for any official meeting no later than the Friday before any such meeting. Any amendment, deletion, or insertion to such agenda after it has been made publicly available can only be made by the board upon a declaration of emergency.¹⁴ Any action taken by the BOCC without complying with this law is illegal.¹⁵

Effect of Proposed Changes

The bill repeals ch. 70-876, Laws of Fla., which requires the Pasco County BOCC to publicly notice its meeting agenda the Friday before any official BOCC meetings. Repealing this provision will result in Pasco County BOCC no longer being required to notice its meeting agenda; instead, Pasco County BOCC will only have to provide due public notice of its meetings in compliance with general law governing public meetings of county commissions.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 70-876, Laws of Fla.

Section 2: Provides the act is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 1, 2019.

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pasco County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

¹² *Id.* at 290-91.

¹³ *Id.* at 291.

¹⁴ Ch. 70-876, Laws of Fla.

¹⁵ *Id.*

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.