The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL:	SB 332
INTRODUCER:	Senator Bradley
SUBJECT:	Public Meetings
DATE:	January 26, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Pre-meeting**
2.			GO	
3.			RC	

I. Summary:

SB 332 creates a public meetings exemption to allow the members of a local government board to meet privately to review a claim made against the government pursuant to the Bert J. Harris, Jr., Property Rights Protection Act. Once the claim is resolved, the records of the meeting, including a transcript, will be open to the public.

The Bert Harris Act creates a means for a landowner to seek compensation in certain instances where a local government entity has taken an action that has reduced the fair market value of the property. A claimant must make a claim prior to filing a lawsuit and the local government must respond to the claim.

Under current law, the meeting among government officials to discuss the claim and determine potential settlement offers must be open to the public. However, similar meetings of a public body to discuss lawsuit strategies and settlement offers are closed to the public during the course of the lawsuit but open when the litigation is concluded.

The bill may have an undetermined positive impact on state and local government expenditures.

The bill is subject to Article I, section 24 of the State Constitution, which requires a two-thirds vote of each house of the Legislature on final passage.

The bill is effective July 1, 2025.

II. Present Situation:

Open Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.[1] Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.[2] This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the "Government in the Sunshine Law,"[3] or the "Sunshine Law,"[4] requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.[5] A commonly used exception creates an exception for meetings often referred as a "shade meeting." By general law passed by a two-thirds vote of each house, the Legislature may exempt any meeting from the public meeting requirements.[6]

Shade Meetings

A shade meeting refers to a private meeting of any public board or commission to discuss litigation strategy with an attorney hired by that board or commission.[7] To be lawful, a shade meeting must comply with these requirements:

- The board or commission's attorney must advise the board or commission at a public meeting that the attorney desires advice concerning the litigation.
- The subject matter of the meeting must be confined to settlement negotiations or strategy sessions related to litigation expenditures.
- The entire private session must be recorded by a certified court reporter.
- The entity must give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session.
- The transcript must be made part of the public record upon conclusion of the litigation.[8]

Bert Harris Act

The "Bert J. Harris, Jr., Private Property Rights Protection Act" was first enacted by the 1995 Legislature.[9] The stated purpose for the law is:

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[1] FLA. CONST., art. I, s. 24(b).
[2] *Id*.
[3] *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).
[4] *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).
[5] Section 286.011(1)-(2), F.S.
[6] FLA. CONST., art. I, s. 24(c).
[7] Section 286.011(8), F.S.
[8] Sections 286.011(8)(a)-(e), F.S.
[9] Chapter 95-181, Laws of Fla. Bert J. Harris, Jr. was known as a champion of private property rights in Florida. He was a state Representative who represented the Lake Placid area from 1982 to 1996. He made the promotion of agriculture his life's avocation. A 1943 honors graduate of the University of Florida with a degree in agriculture, Harris served as a corporal in the U.S. Army Air Corps during World War II. A citrus grower and rancher himself, Harris owned Rainbow Caladiums and was an independent farming consultant until his election into the Legislature. Harris' efforts with the passage of private property

> The Legislature recognizes that some laws, regulations, and ordinances of the state and political entities in the state, as applied, may inordinately burden, restrict, or limit private property rights without amounting to a taking under the State Constitution or the United States Constitution. The Legislature determines that there is an important state interest in protecting the interests of private property owners from such inordinate burdens. Therefore, it is the intent of the Legislature that, as a separate and distinct cause of action from the law of takings, the Legislature herein provides for relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity in the state, as applied, unfairly affects real property.[10]

The act provides that, when a specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner of that real property is entitled to relief, which may include compensation for the actual loss to the fair market value of the real property caused by the action of government.[11] The stated intent of the act is to provide relief in cases that may not rise to the level of a taking under the State Constitution or the United States Constitution.[12]

The act creates a civil cause of action for an affected property owner.[13] Prior to filing a lawsuit, the property owner must file a claim with the entity. The claim must include a written appraisal report that supports the claim and demonstrates the loss in fair market value to the real property.[14] During the 90-day-notice period, unless extended by agreement of the parties, the governmental entity must reply with a written settlement offer that includes actions that the entity may take to mitigate the impact, including one or more of the following:

- An adjustment of land development or permit standards or other provisions controlling the development or use of land.
- Increases or modifications in the density, intensity, or use of areas of development.
- Transfer of development rights.
- Land swaps or exchanges.
- Other mitigation including payments in lieu of onsite mitigation, or location on the least sensitive portion of the property.
- Conditioning the amount of development or use permitted.
- A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.

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rights to protect landowners from excessive government resulted in the naming of the bill the "Bert J. Harris Jr. Private Property Rights Protection Act." He also sponsored legislation to settle citrus canker cases, passed legislation to prevent the disparagement of perishable food products and worked to meet the Greenbelt Law. He passed away in 2019. This note is a compilation of historical data gleaned from the Florida Agricultural Hall of Fame, at https://floridaaghalloffame.org/1999/10/bert-j-harris-jr/ and other sources, including https://en.wikipedia.org/wiki/Bert_J._Harris_Jr.

[10] Section 70.001(1), F.S.
[11] Section 70.001(2), F.S.
[12] Section 70.0001(9), F.S.
[13] Section 70.001(5)(b), F.S.
[14] Section 70.001(4)(a), F.S.

- Issuance of the development order, a variance, a special exception, or any other extraordinary relief.
- Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.

Alternatively, the entity may reply with a statement that there will be no changes to the action of the governmental entity.

Replying to the claim is required. To reply to the claim, the entity must meet with the attorney and at the meeting discuss anticipated results if they do not settle, together with alternative settlement strategies. Ordinarily, lawyers and clients can meet in private regarding litigation strategy, whether they are private actors or public.[15] The reason for this privacy is:

> The attorney-client privilege is the backbone of the legal profession. It encourages the client to be open and honest with his or her attorney without fear that others will be able to pry into those conversations. Further, being fully informed by the client enables the attorney to provide the best legal advice.[16]

However, the current law creating the authority to conduct a shade meeting does not apply to the mandatory discussion of a Bert Harris claim.[17] Thus, a public meeting must occur and claimants can attend these meetings and discover the entity's view of the claim and possible responses.

III. Effect of Proposed Changes:

SB 332 creates a public meetings exemption allowing a public entity to conduct a private meeting with an attorney for the purpose of discussing a claim submitted pursuant to the Bert J. Harris, Jr. Private Property Rights Protection Act. Upon resolution of the claim, the exemption ends and the records of the meeting, including transcripts, are open to public inspection and copying.

The bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Art. I, s. 24(b) of the state constitution requires that "[a]ll meetings of any collegial public body of . . . any collegial public body of a county, municipality, school district, or special

[15] Section 90.502, F.S.
[16] Jacqueline Kate Unger, *Maintaining the Privilege: A Refresher on Important Aspects of the Attorney-Client Privilege*, ABA Law Today (Oct. 2013), https://www.americanbar.org/groups/business_law/resources/business-law-today/2013-october/maintaining-the-privilege/.
[17] Op. Att'y Gen, Fla. 09-25 (2009).

district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public . . . ."

This bill appears to create an exemption from this requirement. Accordingly, s. 24(c) requires that this bill relate solely to the exemption, must state with specificity the public necessity justifying the exemption, and may be no broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill does not appear to contain a public necessity statement required by Article I, section 24(c) of the State Constitution.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 286.011 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.