

PCB GEAC 08-01

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to public meetings; transferring
 3 subsection (8) of section 286.011, F.S., and redesignating
 4 it as subsection (3) of s. 286.0113, F.S.; expanding the
 5 exemption from public meetings requirements for
 6 discussions of pending litigation by expanding the
 7 definition of pending litigation; providing that pending
 8 litigation includes any matter subject to the mandatory
 9 six-month notice of intent to initiate a tort action
 10 lawsuit required by s. 768.28, F.S.; providing for future
 11 legislative review and repeal of the exemption; providing
 12 a statement of public necessity; providing an effective
 13 date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (8) of section 286.011, Florida
 18 Statutes, is transferred to s. 286.0113, redesignated as
 19 subsection (3), and is amended to read:

20 286.0113 General exemptions from public meetings.--

21 (3) (a) For the purposes of this subsection, the term
 22 "pending litigation" includes any matter that is the subject of
 23 the mandatory six-month notice of intent to initiate a tort
 24 action lawsuit provided to a governmental entity pursuant to s.
 25 768.28 and for which a lawsuit has not yet been filed.

26 (b) Notwithstanding the provisions of s. 286.011(1)
 27 ~~subsection (1),~~ any board or commission of any state agency or
 28 authority or any agency or authority of any county, municipal

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29 corporation, or political subdivision, and the chief
30 administrative or executive officer of the governmental entity,
31 may meet in private with the entity's attorney to discuss
32 pending litigation to which the entity is presently a party
33 before a court or administrative agency, provided that the
34 following conditions are met:

35 1.(a) The entity's attorney shall advise the entity at a
36 public meeting that he or she desires advice concerning the
37 litigation.

38 2.(b) The subject matter of the meeting shall be confined
39 to settlement negotiations or strategy sessions related to
40 litigation expenditures.

41 3.(c) The entire session shall be recorded by a certified
42 court reporter. The reporter shall record the times of
43 commencement and termination of the session, all discussion and
44 proceedings, the names of all persons present at any time, and
45 the names of all persons speaking. No portion of the session
46 shall be off the record. The court reporter's notes shall be
47 fully transcribed and filed with the entity's clerk within a
48 reasonable time after the meeting.

49 4.(d) The entity shall give reasonable public notice of
50 the time and date of the attorney-client session and the names
51 of persons who will be attending the session. The session shall
52 commence at an open meeting at which the persons chairing the
53 meeting shall announce the commencement and estimated length of
54 the attorney-client session and the names of the persons
55 attending. At the conclusion of the attorney-client session, the

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56 meeting shall be reopened, and the person chairing the meeting
 57 shall announce the termination of the session.

58 5. If a lawsuit is not filed on any matter for which the
 59 mandatory notice of intent to initiate a tort action is required
 60 by s. 768.28, the transcript shall be made part of the public
 61 record:

62 a. Within 30 days of the settlement or disposition of the
 63 claim; or

64 b. When the time for filing a claim has run if the claim
 65 has not been settled or otherwise disposed.

66 6. ~~(e)~~ The transcript shall be made part of the public
 67 record upon conclusion of the litigation

68 (c) Paragraphs (a) and sub-paragraph (b)5. of this
 69 subsection are subject to the Open Government Sunset Review Act
 70 in accordance with s. 119.15, and shall stand repealed on
 71 October 2, 2013, unless reviewed and saved from repeal through
 72 reenactment by the Legislature.

73 Section 2. The Legislature finds that it is a public
 74 necessity that the definition of the term "pending litigation"
 75 be expanded to include any matter that is the subject of the
 76 mandatory six-month notice of intent to initiate a tort action
 77 lawsuit provided to a governmental entity pursuant to s. 768.28,
 78 F.S., even though a lawsuit has not yet been filed. Provision of
 79 this notice is required to ensure that governmental entities
 80 have the ability to plan for the financial impacts that lawsuits
 81 under s. 768.28, F.S., can have on governmental operations. The
 82 ability of governmental entities to meet with their attorneys in
 83 private in order to discuss potential settlement of these cases

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84 or to discuss strategies related to litigation expenditures
 85 prior to the filing of a lawsuit is beneficial to the public
 86 served by these governmental entities because it could reduce
 87 the amount of time, attorneys fees and costs, and settlement
 88 amounts paid. The Legislature finds that this public meeting
 89 exemption is narrow in scope because the governmental entity
 90 still must provide notice, limit the discussions to settlement
 91 negotiations or strategies related to litigation expenditures,
 92 have the meeting recorded by a certified court reporter, and
 93 make the transcript part of the public record within 30 days of
 94 the settlement or disposition of the claim or when the time for
 95 filing a claim has run if the claim has not been settled or
 96 otherwise disposed. If a lawsuit is filed, the transcript
 97 becomes part of the public record upon conclusion of the
 98 litigation. As such, this narrow exemption from public meetings
 99 requirements ensures the effective and efficient administration
 100 of government.

101 Section 3. This act shall take effect July 1, 2008.