

1 SB132
2 162916-3
3 By Senators Hightower, Bussman and Reed
4 RFD: Governmental Affairs
5 First Read: 03-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 36-25A-2 of the Code of Alabama
12 1975, relating to the Open Meetings Act; to further define the
13 term meeting.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 36-25A-2 of the Code of Alabama
16 1975, is amended to read as follows:

17 "§36-25A-2.

18 "As used in and for determining the applicability of
19 this chapter, the following words shall have the following
20 meanings solely for the purposes of this chapter:

21 "(1) DELIBERATION. An exchange of information or
22 ideas among a quorum of members of a governmental body
23 intended to arrive at or influence a decision as to how the
24 members of the governmental body should vote on a specific
25 matter that, at the time of the exchange, the participating
26 members expect to come before the body immediately following
27 the discussion or at a later time.

1 "(2) EXECUTIVE SESSION. That portion of a meeting of
2 a governmental body from which the public is excluded for one
3 or more of the reasons prescribed in Section 36-25A-7(a).

4 "(3) GENERAL REPUTATION AND CHARACTER.
5 Characteristics or actions of a person directly involving good
6 or bad ethical conduct, moral turpitude, or suspected criminal
7 activity, not including job performance.

8 "(4) GOVERNMENTAL BODY. All boards, bodies, and
9 commissions of the executive and legislative departments of
10 the state or its political subdivisions or municipalities
11 which expend or appropriate public funds; all multimember
12 governing bodies of departments, agencies, institutions, and
13 instrumentalities of the executive and legislative departments
14 of the state or its political subdivisions or municipalities,
15 including, without limitation, all corporations and other
16 instrumentalities whose governing boards are comprised of a
17 majority of members who are appointed or elected by the state
18 or its political subdivisions, counties, or municipalities;
19 and all quasi-judicial bodies of the executive and legislative
20 departments of the state and all standing, special, or
21 advisory committees or subcommittees of, or appointed by, the
22 body. The term "governmental body" does not include any of the
23 following:

24 "a. Legislative party caucuses or coalitions.

25 "b. Alabama appellate or trial courts, except as
26 required by the constitution of this state or any body
27 governed by rules of the Alabama Supreme Court.

1 "c. Voluntary membership associations comprised of
2 public employees, counties, municipalities, or their
3 instrumentalities which have not been delegated any
4 legislative or executive functions by the Legislature or
5 Governor.

6 "(5) JOB PERFORMANCE. The observed conduct or
7 actions of a public employee or public official while on the
8 job in furtherance of his or her assigned duties. Job
9 performance includes whether a person is meeting, exceeding,
10 or failing to meet job requirements or whether formal
11 employment actions should be taken by the governmental body.
12 Job performance does not include the general reputation and
13 character of the person being discussed.

14 "(6) MEETING. a. Subject to the limitations herein,
15 the term meeting shall only apply to the following:

16 "1. The prearranged gathering of a quorum of a
17 governmental body or a quorum of a committee or subcommittee
18 of a governmental body at a time and place which is set by law
19 or operation of law.

20 "2. The prearranged gathering of a quorum of a
21 governmental body or a quorum of a committee or subcommittee
22 of a governmental body during which the body, committee, or
23 subcommittee of the governmental body is authorized, either by
24 law or otherwise, to exercise the powers which it possesses or
25 approve the expenditure of public funds.

26 "3. The gathering, whether or not it was
27 prearranged, of a quorum of a governmental body or a quorum of

1 a committee or a subcommittee of a governmental body during
2 which the members of the governmental body deliberate specific
3 matters that, at the time of the exchange, the participating
4 members expect to come before the body, committee, or
5 subcommittee at a later date.

6 "b. The term "meeting" shall not include:

7 "1. Occasions when a quorum of a governmental body,
8 committee, or subcommittee attends social gatherings,
9 conventions, conferences, training programs, press
10 conferences, media events, or otherwise gathers so long as the
11 governmental body does not deliberate specific matters that,
12 at the time of the exchange, the participating members expect
13 to come before the governmental body at a later date.

14 "2. Occasions when a quorum of a governmental body
15 gathers, in person or by electronic communication, with state
16 or federal officials for the purpose of reporting or obtaining
17 information or seeking support for issues of importance to the
18 governmental body.

19 "3. Notwithstanding subparagraph 1., occasions when
20 two members of a governmental body, including two members of a
21 governmental body which has three members, gather for the sole
22 purpose of exchanging background and education information or
23 for the sole purpose of discussing an economic, industrial, or
24 commercial prospect or incentive that does not include a
25 conclusion as to recommendations, policy, decision, or final
26 action on the terms or request or an offer of public financial
27 resources.

1 "(7) OPEN OR PUBLIC PORTION OF A MEETING. The open
2 or public portion of a meeting is that portion which has not
3 been closed for executive session in accordance with this
4 chapter, for which prior notice was given in compliance with
5 this chapter, and which is conducted so that constituents of
6 the governmental body, members of the media, persons
7 interested in the activities of the governmental body, and
8 citizens of this state could, if they desired, attend and
9 observe.

10 "(8) PROFESSIONAL COMPETENCE. The ability of an
11 individual to practice a profession within the profession's
12 acceptable standards of care and responsibility. A profession
13 is a vocation requiring certification by the State of Alabama
14 or passage of a state licensing examination that may only be
15 granted to or taken by persons who have completed at least
16 three years of college-level education and obtained at least a
17 college-level degree.

18 "(9) PUBLIC EMPLOYEE. Any person employed at the
19 state, county, or municipal levels of government or their
20 instrumentalities, including governmental corporations and
21 authorities, who is paid in whole or in part from state,
22 county, or municipal funds. A public employee does not include
23 a person employed on a part-time basis whose employment is
24 limited to providing professional services other than
25 lobbying, the compensation for which constitutes less than 50
26 percent of the part-time employee's income.

1 "(10) PUBLIC FUNDS. Taxes or fees charged or
2 collected by a governmental body or from the sale of public
3 property including, but not limited to, matching funds from
4 the federal government or income derived from the investment
5 of taxes or fees.

6 "(11) PUBLIC OFFICIAL. Any person elected to public
7 office, whether or not that person has taken office, by the
8 vote of the people at state, county, or municipal levels of
9 government or their instrumentalities, including governmental
10 corporations, and any person appointed to a position at the
11 state, county, or municipal levels of government or their
12 instrumentalities, including governmental corporations.

13 "(12) QUORUM. Unless otherwise provided by law, a
14 quorum is a majority of the voting members of a governmental
15 body. Except where a governmental body is prohibited from
16 holding a non-emergency meeting as defined in subdivision
17 (6)a.1. between the date of election of members and the date
18 such members take office, any person elected to serve on a
19 governmental body shall be counted in the determination of
20 whether a quorum of that governmental body is present, except
21 for any meeting as defined in subdivisions (6)a.1. and 2.,
22 beginning on the date of certification of the results of the
23 general election. In the case of appointment to a governmental
24 body, any person shall be counted in the determination of
25 whether a quorum of that governmental body is present, except
26 for any meeting as defined in subdivisions (6)a.1. and 2.,

1 from the date that the appointment is made or issued whether
2 or not the appointment is effective on that date."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 03-MAR-15

Read for the second time and placed on the calen-
dar 1 amendment..... 07-APR-15

Read for the third time and passed as amended 09-APR-15

Yeas 32
Nays 0

Patrick Harris
Secretary