

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

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8 SYNOPSIS: Under existing law, a meeting of a
9 governmental body is subject to the requirements of
10 the Open Meetings Act.

11 This bill would specify that a meeting as
12 defined in the Open Meetings Act would not include
13 occasions when two members of a governmental body,
14 including two members of a governmental body which
15 has three members, gather and discuss a specific
16 matter as long as a final decision is not made.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

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22 To amend Section 36-25A-2 of the Code of Alabama
23 1975, relating to the Open Meetings Act; to further define the
24 term meeting.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 36-25A-2 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§36-25A-2.

2 "As used in and for determining the applicability of
3 this chapter, the following words shall have the following
4 meanings solely for the purposes of this chapter:

5 "(1) DELIBERATION. An exchange of information or
6 ideas among a quorum of members of a governmental body
7 intended to arrive at or influence a decision as to how the
8 members of the governmental body should vote on a specific
9 matter that, at the time of the exchange, the participating
10 members expect to come before the body immediately following
11 the discussion or at a later time.

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

15 "(3) GENERAL REPUTATION AND CHARACTER.
16 Characteristics or actions of a person directly involving good
17 or bad ethical conduct, moral turpitude, or suspected criminal
18 activity, not including job performance.

19 "(4) GOVERNMENTAL BODY. All boards, bodies, and
20 commissions of the executive and legislative departments of
21 the state or its political subdivisions or municipalities
22 which expend or appropriate public funds; all multimember
23 governing bodies of departments, agencies, institutions, and
24 instrumentalities of the executive and legislative departments
25 of the state or its political subdivisions or municipalities,
26 including, without limitation, all corporations and other
27 instrumentalities whose governing boards are comprised of a

1 majority of members who are appointed or elected by the state
2 or its political subdivisions, counties, or municipalities;
3 and all quasi-judicial bodies of the executive and legislative
4 departments of the state and all standing, special, or
5 advisory committees or subcommittees of, or appointed by, the
6 body. The term "governmental body" does not include any of the
7 following:

8 "a. Legislative party caucuses or coalitions.

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

12 "c. Voluntary membership associations comprised of
13 public employees, counties, municipalities, or their
14 instrumentalities which have not been delegated any
15 legislative or executive functions by the Legislature or
16 Governor.

17 "(5) JOB PERFORMANCE. The observed conduct or
18 actions of a public employee or public official while on the
19 job in furtherance of his or her assigned duties. Job
20 performance includes whether a person is meeting, exceeding,
21 or failing to meet job requirements or whether formal
22 employment actions should be taken by the governmental body.
23 Job performance does not include the general reputation and
24 character of the person being discussed.

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

1 "1. The prearranged gathering of a quorum of a
2 governmental body or a quorum of a committee or subcommittee
3 of a governmental body at a time and place which is set by law
4 or operation of law.

5 "2. The prearranged gathering of a quorum of a
6 governmental body or a quorum of a committee or subcommittee
7 of a governmental body during which the body, committee, or
8 subcommittee of the governmental body is authorized, either by
9 law or otherwise, to exercise the powers which it possesses or
10 approve the expenditure of public funds.

11 "3. The gathering, whether or not it was
12 prearranged, of a quorum of a governmental body or a quorum of
13 a committee or a subcommittee of a governmental body during
14 which the members of the governmental body deliberate specific
15 matters that, at the time of the exchange, the participating
16 members expect to come before the body, committee, or
17 subcommittee at a later date.

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

19 "1. Occasions when a quorum of a governmental body,
20 committee, or subcommittee attends social gatherings,
21 conventions, conferences, training programs, press
22 conferences, media events, or otherwise gathers so long as the
23 governmental body does not deliberate specific matters that,
24 at the time of the exchange, the participating members expect
25 to come before the governmental body at a later date.

26 "2. Occasions when a quorum of a governmental body
27 gathers, in person or by electronic communication, with state

1 or federal officials for the purpose of reporting or obtaining
2 information or seeking support for issues of importance to the
3 governmental body.

4 "3. Notwithstanding subparagraph 1., occasions when
5 two members of a governmental body, including two members of a
6 governmental body which has three members, gather in person or
7 by electronic communication and discuss a specific matter
8 provided a final decision is not reached on the matter.

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

18 "(8) PROFESSIONAL COMPETENCE. The ability of an
19 individual to practice a profession within the profession's
20 acceptable standards of care and responsibility. A profession
21 is a vocation requiring certification by the State of Alabama
22 or passage of a state licensing examination that may only be
23 granted to or taken by persons who have completed at least
24 three years of college-level education and obtained at least a
25 college-level degree.

26 "(9) PUBLIC EMPLOYEE. Any person employed at the
27 state, county, or municipal levels of government or their

1 instrumentalities, including governmental corporations and
2 authorities, who is paid in whole or in part from state,
3 county, or municipal funds. A public employee does not include
4 a person employed on a part-time basis whose employment is
5 limited to providing professional services other than
6 lobbying, the compensation for which constitutes less than 50
7 percent of the part-time employee's income.

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

13 "(11) PUBLIC OFFICIAL. Any person elected to public
14 office, whether or not that person has taken office, by the
15 vote of the people at state, county, or municipal levels of
16 government or their instrumentalities, including governmental
17 corporations, and any person appointed to a position at the
18 state, county, or municipal levels of government or their
19 instrumentalities, including governmental corporations.

20 "(12) QUORUM. Unless otherwise provided by law, a
21 quorum is a majority of the voting members of a governmental
22 body. Except where a governmental body is prohibited from
23 holding a non-emergency meeting as defined in subdivision
24 (6)a.1. between the date of election of members and the date
25 such members take office, any person elected to serve on a
26 governmental body shall be counted in the determination of
27 whether a quorum of that governmental body is present, except

1 for any meeting as defined in subdivisions (6)a.1. and 2.,
2 beginning on the date of certification of the results of the
3 general election. In the case of appointment to a governmental
4 body, any person shall be counted in the determination of
5 whether a quorum of that governmental body is present, except
6 for any meeting as defined in subdivisions (6)a.1. and 2.,
7 from the date that the appointment is made or issued whether
8 or not the appointment is effective on that date."

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