

ACT No. 2015 - 475

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



1 SB132

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4 ENROLLED, An Act,

5 To amend Section 36-25A-2 of the Code of Alabama
6 1975, relating to the Open Meetings Act; to further define the
7 term meeting.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 36-25A-2 of the Code of Alabama
10 1975, is amended to read as follows:

11 "§36-25A-2.

12 "As used in and for determining the applicability of
13 this chapter, the following words shall have the following
14 meanings solely for the purposes of this chapter:

15 "(1) DELIBERATION. An exchange of information or
16 ideas among a quorum of members of a governmental body
17 intended to arrive at or influence a decision as to how the
18 members of the governmental body should vote on a specific
19 matter that, at the time of the exchange, the participating
20 members expect to come before the body immediately following
21 the discussion or at a later time.

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

1 "(3) GENERAL REPUTATION AND CHARACTER.

2 Characteristics or actions of a person directly involving good
3 or bad ethical conduct, moral turpitude, or suspected criminal
4 activity, not including job performance.

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

21 "a. Legislative party caucuses or coalitions.

22 "b. Alabama appellate or trial courts, except as
23 required by the constitution of this state or any body
24 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.

1 "3. The gathering, whether or not it was
2 prearranged, of a quorum of a governmental body or a quorum of
3 a committee or a subcommittee of a governmental body during
4 which the members of the governmental body deliberate specific
5 matters that, at the time of the exchange, the participating
6 members expect to come before the body, committee, or
7 subcommittee at a later date.

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

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

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

21 "3. Notwithstanding subparagraph 1., occasions when
22 two members of a governmental body, including two members of a
23 governmental body which has three members, gather for the sole
24 purpose of exchanging background and education information or
25 for the sole purpose of discussing an economic, industrial, or

1 commercial prospect or incentive that does not include a
2 conclusion as to recommendations, policy, decision, or final
3 action on the terms or request or an offer of public financial
4 resources.

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

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

22 "(9) PUBLIC EMPLOYEE. Any person employed at the
23 state, county, or municipal levels of government or their
24 instrumentalities, including governmental corporations and
25 authorities, who is paid in whole or in part from state,

1 county, or municipal funds. A public employee does not include
2 a person employed on a part-time basis whose employment is
3 limited to providing professional services other than
4 lobbying, the compensation for which constitutes less than 50
5 percent of the part-time employee's income.

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

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

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

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Kay Ivey

President and Presiding Officer of the Senate

Tommy Tuberville

Speaker of the House of Representatives

SB132

Senate 09-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 02-JUN-15

By: Senator Hightower

APPROVED 6-11-15

TIME 9:00 AM

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num.....: 2015-475
Bill Num....: S-132

Recv'd 06/11/15 01:33p SLF

SPONSOR

Hightower
SPONSORS

Dussman 19

Reed 20

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I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 132

years 32 nays abstain

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

DATE:

4/9

2015

RD 1 RFD

EAAP

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its Standing Committee on Trust Company Insurance acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed w/amend(s) w/sub This 29th day of April, 2015.

M. Woodard Chairperson

DATE:

4/30

2015

RF

RD 2 CAL

DATE:

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RE-REFERRED

RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 132

YEAS 98 NAYS 1

JEFF WOODARD,
Clerk

FURTHER HOUSE ACTION (OVER)