

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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President and Presiding Officer of the Senate

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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

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House of Representatives  
Passed: 02-JUN-15

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By: Senator Hightower