

1 SB21  
2 160580-3  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 03-MAR-15  
6 PFD: 02/04/2015

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8 SYNOPSIS: Under existing law, the Open Meetings Act  
9 of 2005 specifically applies to quorums of  
10 committees and subcommittees of governmental  
11 bodies. In 2012, the Alabama Supreme Court, in a  
12 5-4 decision, ruled that the Open Meetings Act did  
13 not apply to a series of committee or subcommittee  
14 gatherings at which discussions were conducted on  
15 matters that would later come before the full  
16 governmental body. In 2013, the Alabama Supreme  
17 Court ruled, in a 5-3 decision, that citizens do  
18 not have standing to bring suits under the Open  
19 Meetings Act if the civil penalty is paid to the  
20 state and there is no allegation of a likelihood of  
21 future violations. Also in 2013, the Alabama  
22 Supreme Court stated that there is no requirement  
23 that the Alabama Legislature hold open meetings.

24 This bill would define and prohibit serial  
25 meetings.

26 This bill would further define deliberation,  
27 governmental body, and meeting to apply to the

1 exchange of information or ideas among a quorum of  
2 members of a committee, subcommittee, or full  
3 governmental body intended to arrive at or  
4 influence a decision as to how any members of the  
5 governmental body should vote on a specific matter  
6 that, at the time of the exchange, the  
7 participating members expect to come before the  
8 committee, subcommittee, or full governmental body  
9 immediately following the discussion or at a later  
10 time.

11 This bill would clarify that the Alabama  
12 Legislature is solely governed by the Alabama  
13 Constitution which establishes that the doors of  
14 each house of the Alabama Legislature shall be open  
15 to the public except when secrecy is required under  
16 the circumstances and that no other provision of  
17 this act applies to the Alabama Legislature.

18 This bill would reaffirm that private  
19 citizens may bring civil actions under the Open  
20 Meetings Act.

21 This bill would provide that the prevailing  
22 plaintiff shall receive any civil penalties awarded  
23 against the defendants.

24 This bill would set a minimum penalty for a  
25 violation of the Open Meetings Act at \$1.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to the Open Meetings Act of 2005; to amend  
5 Sections 36-25A-1, 36-25A-2, 36-25A-3, and 36-25A-9, Code of  
6 Alabama 1975, to define and prohibit serial meetings; to  
7 further define deliberation, governmental body, and meeting to  
8 apply to the exchange of information or ideas among a quorum  
9 of members of a committee, subcommittee, or full governmental  
10 body intended to arrive at or influence a decision as to how  
11 any members of the governmental body should vote on a specific  
12 matter that, at the time of the exchange, the participating  
13 members expect to come before the committee, subcommittee, or  
14 full governmental body immediately following the discussion or  
15 at a later time; to clarify that the Alabama Legislature is  
16 solely governed by the Alabama Constitution which establishes  
17 that the doors of each house of the Alabama Legislature shall  
18 be open to the public except when secrecy is required under  
19 the circumstances and that no other provision of this chapter  
20 applies to the Alabama Legislature; to reaffirm that private  
21 citizens may bring civil actions under the Open Meetings Act;  
22 to provide that the prevailing plaintiff shall receive any  
23 civil penalties awarded against the defendants; and to set a  
24 minimum penalty for a violation of the Open Meetings Act at  
25 \$1.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 36-25A-1, 36-25A-2, 36-25A-3,  
2           and 36-25A-9, Code of Alabama 1975, are amended to read as  
3           follows:

4           "§36-25A-1.

5           "(a) It is the policy of this state that the  
6           deliberative process of governmental bodies shall be open to  
7           the public during meetings as defined in Section 36-25A-2(6).  
8           Except for executive sessions permitted in Section 36-25A-7(a)  
9           or as otherwise expressly provided by other federal or state  
10          laws or statutes, all meetings of a governmental body shall be  
11          open to the public and no meetings of a governmental body may  
12          be held without providing notice pursuant to the requirements  
13          of Section 36-25A-3. No executive sessions are required by  
14          this chapter to be held under any circumstances. ~~Electronic~~  
15          Serial meetings or electronic communications shall not be  
16          utilized to circumvent any of the provisions of this chapter."

17          "(b) This chapter shall be known and may be cited as  
18          the "Alabama Open Meetings Act."

19          "§36-25A-2.

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

23          "(1) DELIBERATION. An exchange of information or  
24          ideas among a quorum of members of a subcommittee, committee,  
25          or full governmental body intended to arrive at or influence a  
26          decision as to how ~~the~~ any members of the subcommittee,  
27          committee, or full governmental body should vote on a specific

1 matter that, at the time of the exchange, the participating  
2 members expect to come before the subcommittee, committee, or  
3 full body immediately following the discussion or at a later  
4 time.

5 "(2) EXECUTIVE SESSION. That portion of a meeting of  
6 a subcommittee, committee, or full governmental body from  
7 which the public is excluded for one or more of the reasons  
8 prescribed in Section 36-25A-7(a).

9 "(3) GENERAL REPUTATION AND CHARACTER.  
10 Characteristics or actions of a person directly involving good  
11 or bad ethical conduct, moral turpitude, or suspected criminal  
12 activity, not including job performance.

13 "(4) GOVERNMENTAL BODY. All boards, bodies, and  
14 commissions of the executive and legislative departments of  
15 the state or its political subdivisions or municipalities  
16 which expend or appropriate public funds; all multimember  
17 governing bodies of departments, agencies, institutions, and  
18 instrumentalities of the executive and legislative departments  
19 of the state or its political subdivisions or municipalities,  
20 including, without limitation, all corporations and other  
21 instrumentalities whose governing boards are comprised of a  
22 majority of members who are appointed or elected by the state  
23 or its political subdivisions, counties, or municipalities;  
24 ~~and~~ all quasi-judicial bodies of the executive and legislative  
25 departments of the state; and all standing, special, or  
26 advisory committees or subcommittees of, or appointed by, the

1 body. The term "governmental body" does not include any of the  
2 following:

3 "a. Legislative party caucuses or coalitions.

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

7 "c. Voluntary membership associations comprised of  
8 public employees, counties, municipalities, or their  
9 instrumentalities which have not been delegated any  
10 legislative or executive functions by the Legislature or  
11 Governor.

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

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

22 "1. The prearranged gathering of a quorum of a  
23 governmental body or a quorum of a committee or subcommittee  
24 of a governmental body at a time and place which is set by law  
25 or operation of law.

26 "2. The prearranged gathering of a quorum of a  
27 governmental body or a quorum of a committee or subcommittee

1 of a governmental body during which the full governmental  
2 body, committee, or subcommittee of the governmental body is  
3 authorized, either by law or otherwise, to exercise the powers  
4 which it possesses or approve the expenditure of public funds.

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

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

14 "1. Occasions when a quorum of a governmental body,  
15 committee, or subcommittee attends social gatherings,  
16 conventions, conferences, training programs, press  
17 conferences, media events, gathers for on-site inspections or  
18 meetings with applicants for economic incentives or assistance  
19 from the governmental body, or otherwise gathers so long as  
20 the subcommittee, committee, or full governmental body does  
21 not deliberate specific matters that, at the time of the  
22 exchange, the participating members expect to come before the  
23 subcommittee, committee, or full governmental body at a later  
24 date.

25 "2. Occasions when a quorum of a subcommittee,  
26 committee, or full governmental body gathers, in person or by  
27 electronic communication, with state or federal officials for



1 the purpose of reporting or obtaining information or seeking  
2 support for issues of importance to the subcommittee,  
3 committee, or full governmental body.

4 "3. Occasions when a quorum of a subcommittee,  
5 committee, or full governmental body gathers to discuss an  
6 economic, industrial, or commercial prospect or incentive that  
7 does not include a conclusion as to recommendations, policy,  
8 decisions or final action on the terms of a request or an  
9 offer of public financial resources.

10 "c. Nothing herein shall restrict or prevent two  
11 members of the same full governmental body from talking  
12 together without deliberation, including two members of a full  
13 governmental body having only three members, and nothing  
14 herein shall restrict or prevent a mayor or executive director  
15 of a city or municipality who is not a voting member of the  
16 city or municipal council from talking or deliberating with a  
17 member of the city or municipal council.

18 "(7) OPEN OR PUBLIC PORTION OF A MEETING. The open  
19 or public portion of a meeting is that portion which has not  
20 been closed for executive session in accordance with this  
21 chapter, for which prior notice was given in compliance with  
22 this chapter, and which is conducted so that constituents of  
23 the governmental body, members of the media, persons  
24 interested in the activities of the governmental body, and  
25 citizens of this state could, if they desired, attend and  
26 observe.

1           "(8) PROFESSIONAL COMPETENCE. The ability of an  
2 individual to practice a profession within the profession's  
3 acceptable standards of care and responsibility. A profession  
4 is a vocation requiring certification by the State of Alabama  
5 or passage of a state licensing examination that may only be  
6 granted to or taken by persons who have completed at least  
7 three years of college-level education and obtained at least a  
8 college-level degree.

9           "(9) PUBLIC EMPLOYEE. Any person employed at the  
10 state, county, or municipal levels of government or their  
11 instrumentalities, including governmental corporations and  
12 authorities, who is paid in whole or in part from state,  
13 county, or municipal funds. A public employee does not include  
14 a person employed on a part-time basis whose employment is  
15 limited to providing professional services other than  
16 lobbying, the compensation for which constitutes less than 50  
17 percent of the part-time employee's income.

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

23           "(11) PUBLIC OFFICIAL. Any person elected to public  
24 office, whether or not that person has taken office, by the  
25 vote of the people at state, county, or municipal levels of  
26 government or their instrumentalities, including governmental  
27 corporations, and any person appointed to a position at the

1 state, county, or municipal levels of government or their  
2 instrumentalities, including governmental corporations.

3 "(12) QUORUM. Unless otherwise provided by law, a  
4 quorum is a majority of the voting members of a governmental  
5 body. Except where a governmental body is prohibited from  
6 holding a non-emergency meeting as defined in subdivision  
7 (6)a.1. between the date of election of members and the date  
8 such members take office, any person elected to serve on a  
9 governmental body shall be counted in the determination of  
10 whether a quorum of that governmental body is present, except  
11 for any meeting as defined in subdivisions (6)a.1. and 2.,  
12 beginning on the date of certification of the results of the  
13 general election. In the case of appointment to a governmental  
14 body, any person shall be counted in the determination of  
15 whether a quorum of that governmental body is present, except  
16 for any meeting as defined in subdivisions (6)a.1. and 2.,  
17 from the date that the appointment is made or issued whether  
18 or not the appointment is effective on that date.

19 "(13) SERIAL MEETING. a. The term serial meeting  
20 applies to any series of gatherings of two or more members of  
21 a governmental body, at which:

22 "1. Less than a quorum is present at each individual  
23 gathering and each individual gathering is attended by at  
24 least one member who also attends one or more other gatherings  
25 in the series.

1           "2. The total number of members attending two or  
2 more of the series of gatherings collectively constitutes a  
3 quorum.

4           "3. There is no notice or opportunity to attend  
5 provided to the public in accordance with the Alabama Open  
6 Meetings Act.

7           "4. The members participating in the gatherings  
8 deliberate specific matters that, at the time of the exchange,  
9 the participating members expect to come before the  
10 subcommittee, committee or full governmental body at a later  
11 date.

12           "5. The series of gatherings was held for the  
13 purpose of circumventing the provisions of this chapter.

14           "6. At least one of the meetings in the series  
15 occurs within seven calendar days of a vote on any of the  
16 matters deliberated.

17           b. The term serial meeting may not include:

18           1. Gatherings at which no deliberations were  
19 conducted or the sole purpose was to exchange background and  
20 education information with members on specific issues shall  
21 not be considered a serial meeting under this chapter.

22           2. A series of gatherings related to a search to  
23 fill a position required to file a statement of economic  
24 interests with the Alabama Ethics Commission pursuant to  
25 Section 36-25-14 until the search has been narrowed to three  
26 or fewer persons under consideration.

1           3. A series of gatherings by the trustees of an  
2 institution of higher learning established by the Alabama  
3 Constitution including, but not limited to, a search to fill a  
4 position that directs such institution or a department or  
5 major division thereof, including the position of president,  
6 vice-president, provost, dean, department head, or athletic  
7 coach.

8           4. A gathering or series of gatherings involving  
9 only a single member of a governmental body."

10           "§36-25A-3.

11           "(a) Unless otherwise specified by law and as  
12 provided herein, any governmental body subject to this  
13 chapter, except for an advisory board, advisory commission,  
14 advisory committee, task force, or other advisory body created  
15 solely to make recommendations on public policy issues and  
16 composed of persons who do not receive compensation for their  
17 service as members of the board, commission, committee, task  
18 force, or body from public funds, shall post notice of all  
19 meetings, as defined in Section 36-25A-2(6)a.1., at least  
20 seven calendar days prior to the meeting as follows:

21           "(1) The Alabama Legislature is solely governed by  
22 the Alabama Constitution which establishes that the doors of  
23 each house of the Alabama Legislature shall be open to the  
24 public unless a vote is taken that secrecy is required under  
25 the circumstances. The respective houses of the Alabama  
26 Legislature shall develop rules consistent with the  
27 Constitution of Alabama of 1901, providing for access to and

1 prior notice of all sessions and standing committee and  
2 standing subcommittee meetings and all meetings of permanent  
3 and joint legislative committees. Because the Alabama  
4 Legislature is solely governed by the Alabama Constitution and  
5 sets its own rules to ensure public access as guaranteed by  
6 the Constitution, no other provision of this chapter applies  
7 to the Alabama Legislature.

8 "(2) Any governmental body with statewide  
9 jurisdiction shall submit notice of its meeting to the  
10 Secretary of State. The Secretary of State shall post the  
11 notice on the Internet for at least seven calendar days prior  
12 to the day of the meeting. The Secretary of State shall also  
13 send electronic mail notifications to anyone who has  
14 registered with the Secretary of State to receive notification  
15 of meetings. The Secretary of State may promulgate reasonable  
16 rules and regulations necessary for the uniform receipt and  
17 posting of notice and of registration for electronic mail  
18 notification. The Secretary of State shall provide during  
19 regular office hours a computer terminal at a place convenient  
20 to the public in the office of the Secretary of State that  
21 members of the public may use to view notices of meetings  
22 posted by the Secretary of State. Any governmental body with  
23 less than statewide jurisdiction may also submit notice to the  
24 Secretary of State for posting on the website. Nothing shall  
25 prevent a governmental body subject to this subsection from  
26 posting notice in any additional manner.

1           "(3) A municipal governmental body shall post notice  
2 of each meeting on a bulletin board at a place convenient to  
3 the public in the city hall, provided, however, that a  
4 corporation a majority of whose governing board is appointed  
5 or elected by a municipality and that has a principal office  
6 separate from the city hall may, in lieu of posting notice in  
7 the city hall, post notice of each meeting on a bulletin board  
8 at a place convenient to the public in the principal office of  
9 the corporation or other instrumentality.

10           "(4) A local school board shall post notice of each  
11 meeting on a bulletin board at a place convenient to the  
12 public in the central administrative office of the board.

13           "(5) Any other governmental body shall post notice  
14 of each meeting in a reasonable location or shall use a  
15 reasonable method of notice that is convenient to the public.  
16 Any change of the location or method for posting notices of  
17 meetings shall not take effect until the change has been  
18 approved at an open meeting by the members of the governmental  
19 body and announced to the public at an open meeting.

20           "(6) If practicable, a governmental body other than  
21 those with statewide jurisdiction, in addition to the posting  
22 requirements, shall provide direct notification of a meeting,  
23 as defined in Section 36-25A-2(6)a., to any member of the  
24 public or news media covering that governmental body who has  
25 registered with the governmental body to receive notification  
26 of meetings. A governmental body may promulgate reasonable  
27 rules and regulations necessary for the uniform registration

1 and payment for direct notice and for the distribution of the  
2 notices. The governmental body may choose to transmit a notice  
3 using electronic mail, telephone, facsimile, the United States  
4 Postal Service, or any other method reasonably likely to  
5 provide the requested notice. The actual cost of issuing  
6 notices, if there is one, may be required to be paid in  
7 advance by the person requesting notice by the governmental  
8 body. Direct notice to persons who have registered with the  
9 governmental body shall, at a minimum, contain the time, date,  
10 and place of the meeting.

11 "(b) Unless otherwise specified by law directly  
12 applicable to the governmental body, notice of a meeting, as  
13 defined in Section 36-25A-2(6)a.2. and 3. as well as meetings  
14 called pursuant to Section 11-43-50 shall be posted as soon as  
15 practicable after the meeting is called and in no event less  
16 than 24 hours before the meeting is scheduled to begin, unless  
17 such notice (i) is prevented by emergency circumstances  
18 requiring immediate action to avoid physical injury to persons  
19 or damage to property; or (ii) relates to a meeting to be held  
20 solely to accept the resignation of a public official or  
21 employee. In such situations, notice shall be given as soon as  
22 practical, but in no case less than one hour before the  
23 meeting is to begin. At the same time general notice is given,  
24 special notice shall be directed to any person who has  
25 registered to receive direct notices pursuant to the  
26 provisions of subsection (a)(6).



1           "(c) Posted notice pursuant to this section shall  
2 include the time, date, and place of meeting. If a preliminary  
3 agenda is created, it shall be posted as soon as practicable  
4 in the same location or manner as the notice given pursuant to  
5 this section. A governmental body may discuss at a meeting  
6 additional matters not included in the preliminary agenda. If  
7 a preliminary agenda is not available, the posted notice shall  
8 include a general description of the nature and purpose of the  
9 meeting.

10           "(d) County commissions which provide proper notice  
11 in conformance with Section 11-3-8 shall not be required to  
12 comply with subsections (a), (b), and (c) of this section, nor  
13 shall committees or subcommittees of such commissions so long  
14 as the committees also comply with the notice procedures  
15 applicable to the full commission in Section 11-3-8.

16           "(e) Governmental bodies may give, but shall not be  
17 required to give, notice of quasi-judicial or contested case  
18 hearings which could properly be conducted as an executive  
19 session under this chapter or existing state law.

20           "(f) A governmental body is authorized, but not  
21 required, to provide notice in addition to that specified in  
22 this section and to provide notice for gatherings which are  
23 not meetings as defined in Section 36-25A-2(6).

24           "§36-25A-9.

25           "(a) ~~Enforcement~~ This chapter is designed and  
26 intended to hold members of governmental bodies, and the  
27 bodies themselves, accountable to the public for violations of

1 this chapter. Therefore, enforcement of this chapter, except a  
2 violation of Section 26-25A-3(a)(1), may be sought by civil  
3 action brought in the county where the governmental body's  
4 primary office is located by any media organization, any  
5 Alabama citizen, the Attorney General, or the district  
6 attorney for the circuit in which the governmental body is  
7 located; provided, however, that no member of a governmental  
8 body may serve as a plaintiff in an action brought against  
9 another member of the same governmental body for an alleged  
10 violation of this chapter. The complaint shall be verified,  
11 shall state specifically the applicable ground or grounds for  
12 the complaint as set out in subdivisions (1) through (4) of  
13 subsection (b), and shall name in their official capacity all  
14 members of the governmental body remaining in attendance at  
15 the alleged meeting held in violation of this chapter. Members  
16 of a governmental body who are named as a defendant in a  
17 complaint under this chapter shall serve an initial response  
18 to the complaint within seven business days of personal  
19 service of the complaint. A preliminary hearing on the  
20 complaint filed shall be held no later than 10 business days  
21 after the date of the filing of the defendant or defendants'  
22 initial response to the complaint or, if no response is filed,  
23 no later than 17 business days after the filing of the  
24 complaint, or on the nearest day thereafter as the court shall  
25 fix, having regard to the speediest possible determination of  
26 the cause consistent with the rights of the parties.

1           "(b) In the preliminary hearing on the complaint,  
2 the plaintiff shall establish by a preponderance of the  
3 evidence that a meeting of the governmental body occurred and  
4 that each defendant attended the meeting. Additionally, to  
5 establish a prima facie case the plaintiff must present  
6 substantial evidence of one or more of the following claims:

7           "(1) That the defendants disregarded the  
8 requirements for proper notice of the meeting pursuant to the  
9 applicable methods set forth in Section 36-25A-3.

10           "(2) That the defendants disregarded the provisions  
11 of this chapter during a meeting, other than during an  
12 executive session.

13           "(3) That the defendants voted to go into executive  
14 session and while in executive session the defendants  
15 discussed matters other than those subjects included in the  
16 motion to convene an executive session as required by Section  
17 36-25A-7(b).

18           "(4) That, other than a claim under subdivisions (1)  
19 through (3), the defendants intentionally violated other  
20 provisions of this chapter.

21           "(c) If the court finds that the plaintiff has met  
22 its initial burden of proof as required in subsection (b) at  
23 the preliminary hearing, the court shall establish a schedule  
24 for discovery and set the matter for a hearing on the merits.  
25 If, at the preliminary hearing, the plaintiff has presented  
26 its prima facie case that an executive session appears to have  
27 been improperly conducted as set out in subsection (b) (3), the

1 defendants shall bear the burden of proof at the hearing on  
2 the merits to prove by a preponderance of the evidence that  
3 the discussions during the executive session were limited to  
4 matters related to the subjects included in the motion to  
5 convene an executive session required in Section 36-25A-7(a).

6 "(d) During a proceeding involving claims brought  
7 under subsection (b)(3), the court shall conduct an in camera  
8 proceeding or adopt another procedure as necessary to protect  
9 the confidentiality of the matters discussed during the  
10 executive session, and if there is a determination that the  
11 executive session was authorized by this chapter, the matters  
12 shall not be disclosed or utilized in any other legal  
13 proceeding by any individual or attorney who attends the in  
14 camera portion of the proceedings.

15 "(e) Upon proof by a preponderance of the evidence  
16 of a defendant's violation of this chapter, the circuit court  
17 shall issue an appropriate final order including, if  
18 appropriate, a declaratory judgment or injunction. Prior to a  
19 final determination of the merits, temporary restraining  
20 orders or preliminary injunctions may be issued upon proper  
21 motion and proof as provided and required in the Alabama Rules  
22 of Civil Procedure. A final order on the merits shall be  
23 issued within 60 days after the preliminary hearing unless a  
24 longer period is consented to by all parties and the court.

25 "(f) The court may invalidate the action or actions  
26 taken during a meeting held in violation of this chapter,  
27 provided that the complaint is filed within 21 days of the

1 date when the action is made public, the violation was not the  
2 result of mistake, inadvertence, or excusable neglect, and  
3 invalidation of the governmental action taken would not unduly  
4 prejudice third parties who have changed their position or  
5 taken action in good faith reliance upon the challenged action  
6 of the governmental body; provided further, however, that any  
7 action taken at an open meeting conducted in a manner  
8 consistent with this chapter shall not be invalidated because  
9 of a violation of this chapter which occurred prior to such  
10 meeting.

11 "(g) A final order issued against a defendant shall  
12 state specifically upon which claim or claims in subdivisions  
13 (1) through (4) the ruling is based. For each meeting proven  
14 to be held in violation of this chapter for one or more  
15 reasons, the court shall impose a civil penalty payable to the  
16 plaintiff(s). The maximum penalty for each meeting shall not  
17 exceed one thousand dollars (\$1,000) or one half of the  
18 defendant's monthly salary for service on the governmental  
19 body, whichever is less. The minimum penalty shall be one  
20 dollar (\$1). With regard to claims related to improper  
21 discussions during executive sessions, monetary penalties may  
22 only be assessed against defendant members of a governmental  
23 body who voted to go into an executive session and who  
24 remained in the executive session during a discussion  
25 determined by the court not to have been authorized by this  
26 chapter. Penalties imposed against a member of a governmental  
27 body found to have acted in violation of this chapter shall

1 not be paid by nor reimbursed to the member by the  
2 governmental body he or she serves. If more than one cause of  
3 action is filed pursuant to this chapter, all causes of action  
4 based on or arising out of the same alleged violation or  
5 violations shall be consolidated into the action that was  
6 first filed and any party may intervene into the consolidated  
7 action pursuant to the Alabama Rules of Civil Procedure, and  
8 no member found to have acted in violation of this chapter by  
9 a final court order and assessed a penalty as authorized  
10 herein shall be subject to further liability or penalty to the  
11 same or different plaintiffs in separate causes of action for  
12 the same violation or violations."

13 "(h) A governmental body is authorized to pay for or  
14 provide for the legal expenses of present or former members of  
15 the body named as defendants in a proceeding under this  
16 chapter."

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