

2017 -- H 5512

LC001481

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - OPEN MEETINGS

Introduced By: Representatives Mendonca, Roberts, Filippi, Quattrocchi, and Lombardi

Date Introduced: February 15, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-46-8 of the General Laws in Chapter 42-46 entitled "Open
2 Meetings" is hereby amended to read as follows:

3 **42-46-8. Remedies available to aggrieved persons or entities.**

4 (a) Any citizen or entity of the state who is aggrieved as a result of violations of the
5 provisions of this chapter may file a complaint with the attorney general. The attorney general
6 shall investigate the complaint and if the attorney general determines that the allegations of the
7 complaint are meritorious he or she may file a complaint on behalf of the complainant in the
8 superior court against the public body.

9 (1) Within ninety (90) days of the filing of a complaint pursuant to this section, the
10 attorney general shall file a report detailing the results of the investigation and setting forth the
11 facts upon which the attorney general based their determination whether or not to file a complaint
12 on behalf of the complainant in the superior court against a public body pursuant to subsection (a)
13 of this section. The report required by this subdivision shall be made available and deemed a
14 public record pursuant to chapter 2 of title 38.

15 (b) No complaint may be filed by the attorney general after one hundred eighty (180)
16 days from the date of public approval of the minutes of the meeting at which the alleged violation
17 occurred, or, in the case of an unannounced or improperly closed meeting, after one hundred
18 eighty (180) days from the public action of a public body revealing the alleged violation,
19 whichever is greater.

1 (c) Nothing within this section shall prohibit any individual from retaining private
2 counsel for the purpose of filing a complaint in the superior court within the time specified by this
3 section against the public body which has allegedly violated the provisions of this chapter;
4 provided, however, that if the individual has first filed a complaint with the attorney general
5 pursuant to this section, and the attorney general declines to take legal action, the individual may
6 file suit in superior court within ninety (90) days of the attorney general's closing of the complaint
7 or within one hundred eighty (180) days of the alleged violation, whichever occurs later.

8 (d) The court shall award reasonable attorney fees and costs to a prevailing plaintiff,
9 other than the attorney general, except where special circumstances would render such an award
10 unjust. The court may issue injunctive relief and declare null and void any actions of a public
11 body found to be in violation of this chapter. In addition, the court may impose a civil fine not
12 exceeding five thousand dollars (\$5,000) against a public body or any of its members found to
13 have committed a willful or knowing violation of this chapter.

14 (e) Nothing within this section shall prohibit the attorney general from initiating a
15 complaint on behalf of the public interest.

16 (f) Actions brought under this chapter may be advanced on the calendar upon motion of
17 the petitioner.

18 (g) The attorney general shall consider all complaints filed under this chapter to have also
19 been filed under section 38-2-8(b) if applicable.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would require the attorney general to, within ninety (90) days of a complaint
2 alleging a violation of the open meetings law, file a report detailing the results of the investigation
3 into that complaint. The report would be deemed a public record.

4 This act would take effect upon passage.

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