

2019 Regular Session

SENATE BILL NO. 66

BY SENATOR RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC MEETINGS. Provides relative to open meetings of public bodies. (8/1/19)

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AN ACT

To amend and reenact R.S. 42:26(C) and 28 and to enact R.S. 42:26(D), relative to open meetings of public bodies; to provide with respect to the open meetings law; to provide for enforcement of the open meetings law; to provide for an increase in the civil penalty for a knowing and willful violation of the open meetings law; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:26(C) and 28 are hereby amended and reenacted and R.S. 42:26(D) is hereby enacted to read as follows:

§26. Remedies; jurisdiction; authority; attorney fees

* * *

C. If a ~~person~~ **a party** who brings an enforcement proceeding **pursuant to R.S. 42:25** prevails, ~~he~~ **the party** shall be awarded reasonable attorney fees and other costs of litigation. If such ~~person~~ **party** prevails in part, the court may award ~~him~~ **the party** reasonable attorney fees or an appropriate portion thereof.

D. If the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the

1 prevailing party.

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3 §28. Civil penalties

4 Any member of a public body who knowingly and wilfully participates in a
5 meeting conducted in violation of this Chapter, shall be subject to a civil penalty not
6 to exceed ~~one~~ **five** hundred dollars per violation. The member shall be personally
7 liable for the payment of such penalty. A suit to collect such penalty must be
8 instituted within sixty days of the violation.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 66 Original

2019 Regular Session

Riser

Present law (R.S. 42:12) provides that it is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.

Present law (R.S. 42:14) provides that every meeting of any public body shall be open to the public with certain limited exceptions which are provided for in present law (R.S. 42:16, 17, or 18) such as executive sessions, executive meetings, discussions of professional competence, or discussions of the mental or physical health of a person, etc.

Present law (R.S. 42:25) provides that the provisions of the open meetings law may be enforced in court by the attorney general, the district attorney, or a person who has been denied any right under the open meetings law. Present law (R.S. 42:26) provides that the court may order any of the following remedies for such violation:

- (1) A writ of mandamus.
- (2) Injunctive relief.
- (3) Declaratory judgment.
- (4) Judgment rendering the action that was taken during the public meeting which violated the open meetings law, void.
- (5) Judgment awarding civil penalties.

Present law (R.S. 42:26) further provides that, if a person who brings an enforcement proceeding prevails, the person bringing the action shall be awarded reasonable attorney fees and other costs of litigation. Present law further provides that, if the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, the court may award reasonable attorney fees to the prevailing party.

Proposed law retains present law and provides that the district attorney and the attorney general may also be entitled to reasonable attorney fees and other costs of litigation if the enforcement against sought prevails against a violator of the open meetings law.

Present law (R.S. 42:28) provides that any member of a public body who knowingly and wilfully participates in a meeting conducted in violation of this present law shall be subject to a civil penalty not to exceed \$100 per violation.

Proposed law retains present law but changes the amount of the civil penalty from \$100 to \$500.

Effective August 1, 2019.

(Amends R.S. 42:26(C) and 28; adds R.S. 42:26(D))