

2018 -- H 7589

LC004501

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - OPEN MEETINGS

Introduced By: Representatives Mendonca, Craven, Canario, Shanley, and Filippi

Date Introduced: February 14, 2018

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 this
13 subsection. The report required by this subsection shall be made available and deemed a public
14 record pursuant to chapter 2 of title 38. Provided however, that if the complaint is filed ninety
15 (90) days before a general election, then the report filing deadline shall be extended to one
16 hundred twenty (120) days after the general election.

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

1 eighty (180) days from the public action of a public body revealing the alleged violation,
2 whichever is greater.

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

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

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

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - OPEN MEETINGS

1 This act would require the attorney general to file, within ninety (90) days of a complaint
2 alleging a violation of the open meetings law, a report detailing the results of the investigation
3 into that complaint. If the complaint is filed ninety (90) days before a general election the report
4 would be filed one hundred twenty (120) days after the election. The report would be deemed a
5 public record.

6 This act would take effect upon passage.

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