SB132
162916-5
By Senators Hightower, Bussman and Reed
RFD: Governmental Affairs
First Read: 03-MAR-15
ENROLLED, An Act,

To amend Section 36-25A-2 of the Code of Alabama 1975, relating to the Open Meetings Act; to further define the term meeting.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-25A-2 of the Code of Alabama 1975, is amended to read as follows:

"§36-25A-2.

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

"(1) DELIBERATION. An exchange of information or ideas among a quorum of members of a governmental body intended to arrive at or influence a decision as to how the members of the governmental body should vote on a specific matter that, at the time of the exchange, the participating members expect to come before the body immediately following the discussion or at a later time.

"(2) EXECUTIVE SESSION. That portion of a meeting of a governmental body from which the public is excluded for one or more of the reasons prescribed in Section 36-25A-7(a).
"(3) GENERAL REPUTATION AND CHARACTER.

Characteristics or actions of a person directly involving good
or bad ethical conduct, moral turpitude, or suspected criminal
activity, not including job performance.

"(4) GOVERNMENTAL BODY. All boards, bodies, and
commissions of the executive and legislative departments of
the state or its political subdivisions or municipalities
which expend or appropriate public funds; all multimember
governing bodies of departments, agencies, institutions, and
instrumentalities of the executive and legislative departments
of the state or its political subdivisions or municipalities,
including, without limitation, all corporations and other
instrumentalities whose governing boards are comprised of a
majority of members who are appointed or elected by the state
or its political subdivisions, counties, or municipalities;
and all quasi-judicial bodies of the executive and legislative
departments of the state and all standing, special, or
advisory committees or subcommittees of, or appointed by, the
body. The term "governmental body" does not include any of the
following:

"a. Legislative party caucuses or coalitions.

"b. Alabama appellate or trial courts, except as
required by the constitution of this state or any body
governed by rules of the Alabama Supreme Court.
"c. Voluntary membership associations comprised of public employees, counties, municipalities, or their instrumentalities which have not been delegated any legislative or executive functions by the Legislature or Governor.

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

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

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

"2. The prearranged gathering of a quorum of a governmental body or a quorum of a committee or subcommittee of a governmental body during which the body, committee, or subcommittee of the governmental body is authorized, either by law or otherwise, to exercise the powers which it possesses or approve the expenditure of public funds.
"3. The gathering, whether or not it was
prearranged, of a quorum of a governmental body or a quorum of
a committee or a subcommittee of a governmental body during
which the members of the governmental body deliberate specific
matters that, at the time of the exchange, the participating
members expect to come before the body, committee, or
subcommittee at a later date.

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

"1. Occasions when a quorum of a governmental body,
committee, or subcommittee attends social gatherings,
conventions, conferences, training programs, press
conferences, media events, or otherwise gathers so long as the
governmental body does not deliberate specific matters that,
at the time of the exchange, the participating members expect
to come before the governmental body at a later date.

"2. Occasions when a quorum of a governmental body
gathers, in person or by electronic communication, with state
or federal officials for the purpose of reporting or obtaining
information or seeking support for issues of importance to the
governmental body.

"3. Notwithstanding subparagraph 1., occasions when
two members of a governmental body, including two members of a
governmental body which has three members, gather for the sole
purpose of exchanging background and education information or
for the sole purpose of discussing an economic, industrial, or
commercial prospect or incentive that does not include a
conclusion as to recommendations, policy, decision, or final
action on the terms or request or an offer of public financial
resources.

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

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

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

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

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

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

Section 2. This act shall become effective on the
first day of the third month following its passage and
approval by the Governor, or its otherwise becoming law.
SB132

President and Presiding Officer of the Senate

Speaker of the House of Representatives

Patrick Harris
Secretary

SB132
Senate 09-APR-15
I hereby certify that the within Act originated in and passed
the Senate, as amended.

House of Representatives
Passed: 02-JUN-15

By: Senator Hightower

APPROVED  6-11-15

TIME  9:00 AM

Robert Bentley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2015-475
Bill Num....: S-132
Recv'd 06/11/15  01:33pmSLF
I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill.
SB 192

YEAS 32  NAYS 0  ABSTAIN 0

PATRICK HARRIS, Secretary

I hereby certify that the notice & proof is attached to the Bill, SB ____________, as required in the General Acts of Alabama, 1975 Act No. 319.

PATRICK HARRIS, Secretary

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on ___________, acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed without amendment(s) w/sub. This 29th day of April, 2015.

Chairperson

CONFERENCE COMMITTEE

Senate Conferees

CONFERENCE COMMITTEE

Senate Conferees

DATE: 4/30/2015

RE-REFERRED RE-COMMITTED

DATE: 20__

RE-REFERRED RE-COMMITTED

DATE: 4/30/2015

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill.
SB 192

YEAS 98  NAYS 1

JEFF WOODARD, Clerk

FURTHER HOUSE ACTION (OVER)