Georgia State University Law Review

Volume 15
Issue 1 *Fall 1998*

Article 31

3-15-2012

STATE GOVERNMENT Open and Public Meetings: Authorize Attorney General to Bring Civil or Criminal Actions to Enforce Georgia Open and Public Meetings Laws

Georgia State University Law Review

Follow this and additional works at: http://digitalarchive.gsu.edu/gsulr

Part of the Law Commons

Recommended Citation
Georgia State University Law Review (1998) "STATE GOVERNMENT Open and Public Meetings: Authorize Attorney General to Bring Civil or Criminal Actions to Enforce Georgia Open and Public Meetings Laws," *Georgia State University Law Review*: Vol. 15: Iss. 1, Article 31.
Available at: http://digitalarchive.gsu.edu/gsulr/vol15/iss1/31

This Peach Sheet is brought to you for free and open access by the College of Law Publications at Digital Archive @ GSU. It has been accepted for inclusion in Georgia State University Law Review by an authorized administrator of Digital Archive @ GSU. For more information, please contact digitalarchive@gsu.edu.

STATE GOVERNMENT

Open and Public Meetings: Authorize Attorney General to Bring Civil or Criminal Actions to Enforce Georgia Open and Public Meetings Laws

CODE SECTIONS:	O.C.G.A. §§ 50-14-5, 50-18-73 (amended)
BILL NUMBER:	HB 1549
ACT NUMBER:	740
GEORGIA LAWS:	1998 Ga. Laws 595
SUMMARY:	The Act authorizes the State Attorney General to bring civil or criminal judicial actions in his or her discretion to enforce Georgia open and public meetings laws.
EFFECTIVE DATE:	July 1, 1998

History

In 1976, the federal Government enacted the Sunshine Act, which set forth a presumption that government information should be open for public inspection[1] unless expressly excluded by provisions in the law.[2] The Sunshine Act was created to provide the public with information concerning the decision making processes of the federal Government because "the 'government should conduct the public's business in public.' "[3]

The Sunshine Act requires that "every portion of every meeting of an agency shall be open to public observation."[4] Although it promulgated a federal law providing access to the federal Government, the passage of the Sunshine Act did not initiate the open government movement in the United States.[5] Alabama was the first state to enact open meetings laws in 1915.[6] Today, all fifty states have

1. *See* Kathy Bradley, *Do You Feel the Sunshine? Government in the Sunshine Act: Its Objectives, Goals, and the Effect on the FCC and You*, 49 FED. COMM. L.J. 473, 475 (1997).
2. *See* 5 U.S.C. § 552(b) (1994).
3. Bradley, *supra* note 1, at 474 (quoting S. REP. NO. 94-354, at 1 (1975)).
4. 5 U.S.C. § 552b(b) (1994).
5. *See* John J. Watkins, *Open Meetings Under the Arkansas Freedom of Information Act*, 38 ARK. L. REV. 268, 272 (1984).
6. *See* James H. Cawley, *Sunshine Law Overexposure and the Demise of Independent Agency Collegiality*, 1 WIDENER J. PUB. L. 43, 53-54 (citing 1915 ALA. ACTS 278, *codified at* ALA. CODE § 13A-14-2 (1982)).

Produced by The Berkeley Electronic Press, 1998
HeinOnline -- 15 Ga. St. U. L. Rev. 242 1998-1999

passed open government statutes, including Georgia, which passed its open meetings law in 1972.[7]

In 1998, the Georgia First Amendment Foundation (GFAF), a watchdog organization that promotes open government and enforcement of the Sunshine Laws, helped instigate a bill to enforce these laws.[8] The GFAF promoted its ideas for alternative remedies to other public interest and media groups in Georgia, which culminated in a proposal to Attorney General Thurbert Baker.[9] Baker was the State's first attorney general to set forth a formal legislative agenda.[10] Attorney General Baker presented the bill to Representative Dubose Porter of the 143rd District, who sponsored the bill in the 1998 Georgia General Assembly.[11]

HB 1549

HB 1549 passed the General Assembly as submitted by Attorney General Baker except for one minor change.[12] The House Judiciary Committee passed a substitute to the bill that added "civil or criminal" to its language.[13] The Committee made this addition because the original version of the Act was unclear as to the type of action that the Attorney General could initiate.[14] The Committee substitute ultimately passed both the House and the Senate unaltered.[15]

The Act

The Act simply adds a sentence to Code sections 50-14-5 and 50-18-73 providing that the Attorney General is authorized to bring legal actions within his or her discretion to enforce the open meetings and

---

7. *See id.* at 54; 1972 Ga. Laws 575.

8. *See* E-mail Interview with Hollie Manheimer, Georgia First Amendment Foundation (May 27, 1998) [hereinafter Manheimer Interview].

9. *See id.*

10. *See* Telephone Interview with Daryl Robinson, Deputy Counsel to the Attorney General (June 18, 1998).

11. *See* Telephone Interview with Rep. Tom Bordeaux, House District No. 151 (June 1, 1998) [hereinafter Bordeaux Interview].

12. *See* Telephone Interview with Rep. Jim Martin, House District No. 47 (June 1, 1998) [hereinafter Martin Interview].

13. HB 1549 (HCS), 1998 Ga. Gen. Assem.; Martin Interview, *supra* note 12.

14. *See* Martin Interview, *supra* note 12.

15. *See* State of Georgia Final Composite Status Sheet, Mar. 19, 1998. *Compare* HB 1549 (HCS), 1998 Ga. Gen. Assem., *with* O.C.G.A. §§ 50-14-5(a), 50-18-73(a) (1998).

HeinOnline -- 15 Ga. St. U. L. Rev. 243 1998-1999

open records laws.[16] Previously, the Attorney General was only authorized to bring such actions at the request of local district attorneys who were often reluctant to propose legal actions against other local officials, especially those officials carrying political clout against them.[17] According to Hollie Manheimer, director of the GFAF, the effect of this change should increase pressure on government agencies to comply with the open government laws because of the wider range of enforcement procedures.[18] Organizations such as the GFAF see the Act as a starting point and will likely encourage Georgia lawmakers to impose other alternative remedies for open meetings violations, such as allowing the Attorney General to write opinions or black letter rulings on open meetings disputes.[19]

Meri K. Christensen

16. *See* 1998 Ga. Laws 595 (codified at O.C.G.A. §§ 50-14-5(a), 50-18-73(a) (1998)).
17. *See* Bordeaux Interview, *supra* note 11.
18. *See* Manheimer Interview, *supra* note 8.
19. *See id.*

HeinOnline -- 15 Ga. St. U. L. Rev. 244 1998-1999