

April 12, 2001

**H 1225. OPEN MEETINGS PENDING LITIGATION. RELATING TO DISCUSSION OF PENDING LITIGATION IN CLOSED SESSIONS.** Rewrites GS 143-318.11(a)(3), to authorize a public body

to meet in closed session to consult with its attorney regarding pending litigation when discussion in open session about the litigation would prejudice the body's position in the litigation, and to consider and give instructions to its attorney concerning the handling or settlement of "pending litigation" (was, a claim, judicial action, mediation, arbitration, or administrative procedure).

Provides that the subdivision is the exclusive expression of the attorney-client privilege for purposes of conducting closed sessions. Defines "litigation" to include any adjudicatory proceeding and defines "pending" to include (1) litigation that has been formally initiated and to which the public body is a party; (2) a point at which there is significant exposure to litigation against the public body; (3) a meeting of the public body to decide whether a closed session is authorized under the preceding part of the definition; and (4) the public body has decided to initiate or is deciding whether to initiate litigation. Requires that a public body's attorney (whether employed or retained) who participates in a closed session prepare a memorandum, before the closed session if possible, stating specific reasons and legal authority for the closed session and other specified related information. The memorandum must be made part of the official account of the closed session and may be withheld from public inspection only so long as public inspection would frustrate the purpose of the closed session. Effective Dec. 1, 2001.

**Intro. by Nesbitt.**

Ref. to Judiciary I	GS 143
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