

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 254** Session of  
1997

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INTRODUCED BY JUBELIRER, HELFRICK, HART, PUNT, SALVATORE,  
LEMOND, MOWERY, DELP, CORMAN, BRIGHTBILL, THOMPSON AND  
TOMLINSON, JANUARY 29, 1997

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AS AMENDED ON THIRD CONSIDERATION, JUNE 9, 1997

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## AN ACT

1 Amending the act of July 3, 1986 (P.L.388, No.84), entitled "An  
2 act requiring public agencies to hold certain meetings and  
3 hearings open to the public; and providing penalties,"  
4 further providing for attorney fees.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 13 of the act of July 3, 1986 (P.L.388,  
8 No.84), known as the Sunshine Act, is amended to read:

9 Section 13. Business transacted at unauthorized meeting void.

10 A legal challenge under this act shall be filed within 30  
11 days from the date of a meeting which is open, or within 30 days  
12 from the discovery of any action that occurred at a meeting  
13 which was not open at which the act was violated, provided that,  
14 in the case of a meeting which was not open, no legal challenge  
15 may be commenced more than one year from the date of said  
16 meeting. The court may enjoin any challenged action until a  
17 judicial determination of the legality of the meeting at which  
18 the action was adopted is reached. Should the court determine

1 that the meeting did not meet the requirements of this act, it  
2 may in its discretion find that any or all official action taken  
3 at the meeting shall be invalid. Should the court determine that  
4 the meeting met the requirements of this act, all official  
5 action taken at the meeting shall be fully effective. [The court  
6 may impose attorney fees for legal challenges commenced in bad  
7 faith.]

8 Section 2. The act is amended by adding a section to read:

9 Section 14.1. Attorney fees.

10 ~~If a person brings a successful legal challenge under this~~ <—  
11 ~~act, or prevails~~ SHOULD THE COURT DETERMINE THAT AN AGENCY <—  
12 WILLFULLY, RECKLESSLY OR NEGLIGENTLY VIOLATED A PROVISION OF  
13 THIS ACT, IN WHOLE OR in part, the court may award reasonable  
14 attorney fees and costs of litigation or an appropriate portion  
15 thereof. If the court finds that the legal challenge was of a  
16 frivolous nature and was brought with no substantial  
17 justification, it may award reasonable attorney fees AND COSTS <—  
18 OF LITIGATION OR AN APPROPRIATE PORTION THEREOF to the  
19 prevailing party.

20 Section 3. This act shall be applicable to all legal  
21 challenges filed under this act on or after the effective date.

22 Section 4. This act shall take effect in 60 days.