

# **Bond Case Briefs**

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## **OPEN MEETINGS - ALABAMA**

### **Swindle v. Remington**

**Supreme Court of Alabama - March 8, 2019 - So.3d - 2019 WL 1090393**

President of education association, in her individual capacity and in her capacity as president, brought action against members of board of the Public Education Employees' Health Insurance Program (PEEHIP) in their official capacities for declaratory and injunctive relief based on a claim that the PEEHIP board members violated the Open Meeting Act in regards to a decision to increase health insurance premiums and surcharges.

The Circuit Court entered summary judgment for association's president, invalidated the increased charges, and ordered money held in escrow to distributed back to the respective PEEHIP members. PEEHIP board members appealed.

The Supreme Court of Alabama held that the closed morning session that occurred prior to the board's open afternoon meeting in which the board approved the premium and surcharge increases was a "meeting" under the Open Meetings Act that included the afternoon meeting.

Circuit court's decision to invalidate the increases in health insurance premiums and surcharges approved by the Public Education Employees' Health Insurance Program (PEEHIP) and to return the funds in escrow to the insureds, which was a decision made as part of a summary judgment entered against PEEHIP based on a finding that PEEHIP violated the Open Meetings Act when approving the increases, would be de novo rather than deferential; Open Meetings Act afforded a circuit court no discretion to invalidate actions taken during a meeting because of a violation that occurred prior to the open meeting conducted in a manner consistent with the Open Meetings Act, and the primary issue in this case whether a morning training session was part of one full-day meeting.

Closed morning session that occurred prior to open afternoon meeting of board of the Public Education Employees' Health Insurance Program (PEEHIP) was a "meeting" under the Open Meetings Act that included the afternoon meeting, despite argument that the morning session was a training program and was necessary to educate board members about complex financial matters; the morning session, which was prearranged, was attended by all board members, record was replete with references that staff made recommendations to the board in the morning session about proposed increases in health insurance charges, board members asked questions during the morning session about the proposals, and at least one member openly disagreed with the recommendations.