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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/26/09  
**LAST UPDATED** 3/12/09     **HB** 678/aHVEC  
**SPONSOR** Park  
**SHORT TITLE** Limit Proxy Voting in Open Meetings     **SB** \_\_\_\_\_  
**ANALYST** Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

House Bill 678 is related to House Bill 393 and Senate Bill 150.

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Attorney General's Office (AGO)  
 Commission of Public Records

### SUMMARY

#### Synopsis of House Voters and Elections Committee Amendment

The House Voters and Elections Committee amendment to House bill 678 modifies the proposed new Subsection D by removing the requirement that the proxy vote must be authorized by law. The subsection now reads as follows.

“D. During a meeting, a vote by a member of a public body or by the member's authorized designee shall be cast personally by the member or designee. A member shall not cast a vote for or on behalf of another member by proxy or other means unless expressly authorized.”

#### Synopsis of Original Bill

House Bill 678 amends Section 10-15-1 NMSA 1978 by inserting a new Subsection D providing that during a meeting of a public body, all votes by a member of the public body or the member's designee shall be cast personally and specifically prohibiting proxy voting by a member for or on behalf of another member unless specifically permitted by law. The subsections that follow subsection D are re-lettered and minor technical changes are made.

## **FISCAL IMPLICATIONS**

House Bill 678 makes no appropriations.

The Commission of Public Records reports the bill would have no fiscal implications for them. The Commission does not employ proxy voting for or on behalf of its members.

## **SIGNIFICANT ISSUES**

The AGO1 notes that the Open Meetings Act already requires members of a public body to be present at meetings either physically or, in rare instances, by conference telephone. By implication, that requirement also requires members to cast their votes personally. Nevertheless, the absence of an express provision has led some to conclude that voting by proxy is permissible. The amendment proposed by House Bill 678 will provide needed clarification by expressly prohibiting proxy voting unless authorized by law.

## **RELATIONSHIP**

House Bill 678 relates to House Bill 393 and Senate Bill 150, both of which amend a different section of the Open Meetings Act.

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<sup>1</sup> The analysis from the Attorney General's Office includes the following disclaimer.  
*"This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion letter.  
This is a staff analysis in response to the agency's, committee's or legislator's request."*