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## FISCAL IMPACT REPORT

SPONSOR: Cervantes DATE TYPED: 2/10/03 HB 273  
 SHORT TITLE: Penalties for Open Meeting Act Violations SB \_\_\_\_\_  
 ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring Or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Minimal		

### SOURCES OF INFORMATION

Responses Received From  
 Administrative Offices of the Courts  
 State Highway and Transportation Department  
 Energy, Minerals and Natural Resources  
 Office of the Attorney General

### SUMMARY

#### Synopsis of Bill

HB 273 proposes to amend the Open Meetings Act to allow courts to impose a *civil* penalty of up to \$1,000 against a member of a public body that willfully and knowingly violates a provision of the Act. In the alternative, the member may be assessed the costs associated with the public body's efforts to correct the violation, whichever is greater (\$1,000 or costs).

The bill requires that members of the public bodies be held *personally* liable for the civil penalty if imposed and the penalty cannot be paid by public funds.

Finally, the bill proposes to amend the current maximum *criminal* penalty from \$500 to \$1,000.

#### Significant Issues

1. The public's right to free, unfettered access to, and opportunity to participate in, governmental business and operations and ensuring the preservation of this right through enhanced penalties is addressed by this bill.

2. Such actions will encourage members of public boards and commissions to take their duties seriously, and may strengthen the public's faith in the governmental process.
3. However, many serve on public boards and commissions without pay (or with minimum reimbursement of per diem). Enhancing personal penalties for members may discourage qualified people from accepting such positions.

### **FISCAL IMPLICATIONS**

The costs associated with implementation of this bill are minimal.

### **ADMINISTRATIVE IMPLICATIONS**

Allegations that the Open Meetings Act has been violated are generally referred the Attorney General's Office, Civil Division. This amendment should not lead to an increase in alleged violations. It should lead to a decrease as public body members grow to understand the consequences of their failure to conduct public business in accordance with the requirements of the Open Meetings Act.

**SJM/njw:sb**