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FISCAL IMPACT REPORT

01/20/12
ORIGINAL DATE 02/03/12
LAST UPDATED 02/14/12 **HB** 35/aHCPAC/aSPAC

SPONSOR Smith

SHORT TITLE Public Meeting Agendas 72 Hours Prior **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal*	Minimal*	Minimal*	Minimal*	Recurring	General Fund et al.

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Attorney General's Office (AGO)
- Educational Retirement Board (ERB)
- Public Employees Retirement Association (PERA)
- Energy, Minerals & Natural Resources Department (EMNRD)
- Department of Military Affairs (DMA)
- Municipal League
- Department of Finance and Administration (DFA)
- Medical Board (MB)
- Department of Health (DOH)
- Human Services Department (HSD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to HB 35 provides an exception to the 72 hour deadline for final agendas when a public body ordinarily meets more frequently than once a week. Those public bodies must post a draft agenda at least 72 hours prior and the final agenda at least 36 hours prior to each meeting.

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment to House Bill 35 expands the 72

hour requirement for making the agenda of a public meeting publicly available by also requiring the agenda of a public meeting be posted on the public body's web site if one is maintained. It also clarifies that the provision that allows closing a public meeting to discuss certain sole source purchases is limited only to discussion on that topic (existing law already requires final action be taken in an open meeting).

Synopsis of Original Bill

House Bill 35 amends the Open Meetings Act to require all state and local public body boards, institutions and commissions to make the final agenda for a meeting available to the public at least 72 hours before the meeting, except in the case of an emergency. Currently, the Act requires a final agenda to be available at least 24 hours before a meeting.

FISCAL IMPLICATIONS

This bill impacts all public boards, commissions and institutions, both at state and local levels. Although some agencies anticipate additional meetings to address pressing (but not emergency) matters that arise within the 72 hours following the release of a final agenda, which additional meetings would also increase mileage and per diem expenses, they anticipate the overall impact to be minimal.

SIGNIFICANT ISSUES

This bill enlarges the public notice requirement for meeting agendas for policy-making boards, commissions and institutions from 24 to 72 hours. EMNRD asserts that by increasing the notice requirement for agendas, the public will have greater notice, which will allow for more effective public participation.

Some agencies report, however, that the increase to 72 hours may limit their ability to respond to matters that, while not emergencies, must be handled quickly. PERA, which meets at least twice a month (committees and board meetings), explains:

PERA's staff currently uses every working day before a committee meeting and board meeting to review agenda items, prepare accompanying documentation and presentations. In conjunction with committee and board chairs, staff makes changes to the agenda until it is mailed and posted. PERA would be required to make significant changes to its normal meeting schedule and would have considerably less flexibility to deal with time-sensitive matters related to investments and legislative actions.

ADMINISTRATIVE IMPLICATIONS

Many if not all boards, commissions and agencies will need to revise their Open Meetings resolutions to reflect the increase to 72 hours.

ALTERNATIVES

ERB proposes this alternative:

While increasing the notice time to seventy-two hours is not objectionable to the ERB, for some

agencies like the ERB that have a board of trustees that reside in locations throughout the state and who are sometimes difficult to bring together, a notice requirement of forty-eight hours might prove to be more useful. Doubling the current requirement to forty-eight hours seems to strike a good balance between the public need for notice with the logistical concerns of agencies similar to the ERB that have board meetings only every other month. A forty-eight hour requirement would decrease the probability that the agency would either have to call special board meetings or allow certain issues, which do not meet the definition of emergencies, but are none the less important, go unaddressed for another sixty (60) days.

MD/lj:svb