

Fiscal Note

State of Alaska
2021 Legislative Session

Bill Version:	CSSB 15(CRA)
Fiscal Note Number:	1
(S) Publish Date:	3/10/2021

Identifier: SB15CS(SCRA)-DOA-APOC-3-8-21
Title: OPEN MEETINGS ACT; PENALTY
Sponsor: COSTELLO
Requester: COMMUNITY AND REGIONAL AFFAIRS

Department: Department of Administration
Appropriation: Alaska Public Offices Commission
Allocation: Alaska Public Offices Commission
OMB Component Number: 70

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2022 Appropriation Requested	Included in Governor's FY2022 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2022	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Personal Services	367.4		367.4	367.4	367.4	367.4	367.4
Travel							
Services	40.0		40.0	40.0	40.0	40.0	40.0
Commodities	6.5		2.0	2.0	2.0	2.0	2.0
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	413.9	0.0	409.4	409.4	409.4	409.4	409.4

Fund Source (Operating Only)

1004 Gen Fund (UGF)	413.9		409.4	409.4	409.4	409.4	409.4
Total	413.9	0.0	409.4	409.4	409.4	409.4	409.4

Positions

Full-time	4.0		4.0	4.0	4.0	4.0	4.0
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2021) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2022) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/22

Why this fiscal note differs from previous version/comments:

Not applicable; initial version.

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Phone: (907)276-4176
Date: 03/08/2021 04:00 PM
Date: 03/08/21

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2021 LEGISLATIVE SESSION

Analysis

SB 15 adds the regulation and enforcement of the Open Meetings Act to the duties of the Alaska Public Offices Commission (APOC). It also adds a \$1,000 fine for elected or appointed officials who knowingly violate the Open Meetings Act and specifies that APOC will enforce this fine except for when a member of APOC is accused of a violation.

Enactment of SB 15 will require an increase in APOC staffing due to the number of boards, commissions and service areas subject to the Open Meetings Act that will be under APOC jurisdiction. For example, the State of Alaska has 133 boards and commissions, the Municipality of Anchorage has 45, and the City and Borough Juneau has 32. Even smaller communities have boards, commissions and service areas; for example, Unalaska has 4, Bethel has 8, and Nome has 6.

APOC will establish a team consisting of one paralegal, one associate attorney and two law office assistants. APOC expects a relatively constant flow of citizen inquiries by phone and email concerning the statute in general, whether or not the statute may have been violated, how to file a complaint, and the steps of the complaint procedure. These questions will all require answers and will start at the law office assistant level and then on to the paralegal or the associate attorney depending on complexity.

When a complaint is filed, the associate attorney will bear the primary responsibility for investigation with assistance from the paralegal. The investigation will require statements from the participants and non-participants, if any, of the alleged unlawful meeting; and a request for any documents that may bear on the issues raised. Necessary legal research in order to apply the facts to the law will be performed by the associate attorney, again with the assistance of the paralegal in order to share the workload and have tasks performed at the appropriate level of knowledge and experience.

After investigation is complete, the associate attorney will draft a staff report to the Commission that will set forth the facts, the law, apply the facts to the law and recommend a course of action ranging from dismissal to a maximum civil penalty. The paralegal will likely assist with exhibits, some drafting duties, and proofreading. Lawful service of the report will be performed by law office assistants.

Once a hearing date is set, the associate attorney will draft a notice of hearing setting forth the date and time of the hearing; the issues to be decided; the date for requesting subpoenas; and the dates for motion practice. If subpoenas are requested the associate attorney will facilitate obtaining them from the Commission for the parties. If there is motion practice the associate attorney with the assistance of the paralegal will respond as appropriate if necessary. Service of the notice and any subsequent formal documents will be performed by the law office assistants who will also respond to any inquiries from participants or witnesses to the extent that they are able. More difficult questions from participants and witnesses will go up the line from paralegal to associate attorney.

At the hearing the associate attorney, and in some cases, depending on complexity, the paralegal will present the case to the Commission. If the staff is recommending the finding of a violation, the associate attorney or paralegal becomes, in effect, the prosecutor. Both the staff and the parties may call witnesses and offer exhibits. Exhibits already in the staff report become part of the record.

After the hearing, the Commission will issue an order ranging from dismissal to the finding of a violation and the assessment of the maximum civil penalty. This order will be served by the law office assistants. If an assessed penalty is not paid, the associate attorney and in some cases the paralegal will draft a notice to the violator that if not paid, the matter will be referred to the attorney general for payment. This is accomplished through a Notice of Referral which is served by the law office assistants. The notice sets forth a hearing date and time at which staff will present a report explaining why the matter should be referred to the attorney general for collection. The report will also be served on the violator by the law office assistants.