

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 HOUSE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to violations of the open meetings  
7 section of the Constitution of the State of Alaska;  
8 and amending Alaska Rule of Civil Procedure 82 and  
9 Alaska Rule of Appellate Procedure 508; and providing  
10 for an effective date.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. AS 24.40 is amended by adding new sections to read:

13 ARTICLE 2. LITIGATION INVOLVING THE OPEN MEETINGS REQUIREMENT.

14 Sec. 24.40.050. DEFENSE ON CHARGES OF VIOLATING THE OPEN MEETING  
15 REQUIREMENTS. The Legislative Council shall underwrite the costs and  
16 attorney fees reasonably necessary to the defense of a member of the  
17 legislature who has been charged with a violation of the open meetings  
18 requirements of the Constitution of the State of Alaska.

19 Sec. 24.40.060. FRIVOLOUS OR MALICIOUS COMPLAINTS. If the court  
20 determines that a lawsuit charging a violation of the open meeting  
21 requirements of the Constitution of the State of Alaska was brought  
22 frivolously or maliciously, the court shall assess as attorney fees  
23 and costs the actual expenses of the Legislative Council expended in  
24 the defense of the charges and may assess a civil penalty on the  
25 plaintiff of not to exceed \$1,000.

26 Sec. 24.40.070. ARBITRATION. If the Legislative Council be-  
27 lieves that the amount incurred in a defense under AS 24.40.050 by  
28 private counsel for costs and attorney fees was unreasonable or exces-  
29 sive, it shall offer to reimburse the member a portion of the costs

1 and attorney fees. If the member does not accept the offer of the  
2 Legislative Council, the matter shall be resolved by binding arbitra-  
3 tion under AS 09.43.010 - 09.43.180. If the member and the Legisla-  
4 tive Council do not agree on the selection of an arbitrator, the  
5 arbitrator shall be selected under the rules of the American Arbitra-  
6 tion Association.

7 Sec. 24.40.080. LIMITATIONS OF ACTIONS. A person may not bring  
8 an action for a violation of the open meeting requirements of the  
9 Constitution of the State of Alaska unless the action is commenced  
10 within 180 days of the violation.

11 Sec. 24.40.090. VIOLATION OF OPEN MEETING REQUIREMENTS. An  
12 individual member of the legislature determined by the court to have  
13 violated a provision of the open meetings requirements of the Consti-  
14 tution of the State of Alaska may be assessed a fine not in excess of  
15 \$1,000 for each violation.

16 \* Sec. 2. The provisions of sec. 1 of this Act have the effect of  
17 changing Alaska Rule of Civil Procedure 82 and Alaska Rule of Appellate  
18 Procedure 508 by limiting the courts' discretion in awarding costs and  
19 attorney fees.

20 \* Sec. 3. This Act takes effect on the effective date of a constitu-  
21 tional amendment proposed by the Sixteenth Alaska State Legislature relat-  
22 ing to open meetings.