

HB

140

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 140**

Open Meetings Violations

Received February 3, 1989
by the State Affairs Committee

Heard February 15, 1989

Zero Fiscal Note with Analysis Adopted February 15, 1989

Passed Out of Committee February 15, 1989
5 Do Pass

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HB 140: Open Meetings Violations

- Item 1: HB 140 by the State Affairs Committee
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HOUSE COMMITTEE REPORT

(7)

Date Referred: February 3, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 140 [OPEN MEETING VIOLATIONS]

"An Act relating to violations of the open meetings section of the Constitution of the State of Alaska; and amending Alaska Rule of Civil Procedure 82 and Alaska Rule of Appellate Procedure 508; and providing for an effective date.

[] be replaced with _____ [] the same title
[] a new title

[] have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

David Douley

Alvin Hunter

Carl Spahr

James Fawcett

W. C. Bunker

W. C. Bunker

 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to violations of the open meetings section of the Constitution...
Sponsor: House State Affairs
Requestor: House State Affairs

Affected Agency: Legislative Affairs Agency
BRU: Legislative Council
Components: Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

July 1, 1991

| OPERATING | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|------------------------|----------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 0 | 0 | 0 | 0 | 0 | 0 |
| Travel | 0 | 0 | 0 | 0 | 0 | 0 |
| Contractual | 0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |
| Supplies | 0 | 0 | 0 | 0 | 0 | 0 |
| Equipment | 0 | 0 | 0 | 0 | 0 | 0 |
| Land & Structures | | | | | | |
| Grants, Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (THOUSANDS OF DOLLARS)

| | | | | | | |
|--------------|----------|-------------|-------------|-------------|-------------|-------------|
| General Fund | 0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |
| Federal Fund | | | | | | |
| Other | | | | | | |
| TOTAL | 0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

It is difficult to estimate how many cases will be litigated against members of the legislature each year. The contractual amount requested is for hiring a private attorney for a member of the legislature. It is based on the amount expended in defending the the Legislative Affairs Agency in the Behrends lawsuit - \$61.0.

100,000 lawsuit

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 2/9/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 2/9/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Open Meeting Violations
Sponsor: House State Affairs
Requestor: _____

Agency Affected: Leg. Affairs Agency
BRJ: Leg. Council
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | | -0- | -0- | -0- | -0- | -0- |
| REVENUE | | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|-----|-----|-----|-----|-----|
| GENERAL FUND | | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | -0- | -0- | -0- | -0- | -0- |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

The House State Affairs Committee adopted a zero fiscal note dated Feb. 15, 1989. The committee felt the fiscal note dated Feb. 9, 1989, showing operating costs of \$61,000, was unrealistic.

Prepared by: House State Affairs Phone: 465-4963
Division: _____ Date: Feb 15, 1989
Approved by Commissioner: Rep. H.A. "Ped" Eoucher Date: Feb 15, 1989
Agency: Leg. Council

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Handwritten initials

WORK DRAFT

WORK DRAFT

WORK DRAFT

6-0605A✓
Bradley
1/27/89

1 IN THE HOUSE

2 HOUSE BILL NO.

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.

FISCAL NOTE

REQUEST:

Revision Date: _____ Affect Agency Legislative Affairs Agency
 Title: An Act relating to violations of the BRU: Legislative Council
open meetings section of the Constitution...
 Sponsor: House State Affairs Components Legal Services
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

| OPERATING | FY91 | FY92 | FY93 | FY94 | FY95 | FY96 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 0 | 0 | 0 | 0 | 0 | 0 |
| Travel | 0 | 0 | 0 | 0 | 0 | 0 |
| Contractual | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |
| Supplies | 0 | 0 | 0 | 0 | 0 | 0 |
| Equipment | 0 | 0 | 0 | 0 | 0 | 0 |
| Land & Structures | | | | | | |
| Grants, Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (THOUSANDS OF DOLLARS)

| | | | | | | |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|
| General Fund | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |
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| Other | | | | | | |
| TOTAL | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 | 61.0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

It is difficult to estimate how many cases will be litigated against members of the Legislature each year. The contractual amount requested is for hiring a private attorney for a member of the Legislature. This amount does not assume there are any costs for appeal. It is based on the amount expended in defending the Legislative Affairs Agency in the Behrends lawsuit - \$61.0.

Prepared By Pamela A. Stoops, Director *Pamela Stoops* Phone: 465-3850
 Division: Administrative Services Date: 1/17/90

Approved By: Warren Endicott, Executive Director *Warren Endicott*
 Agency: Legislative Affairs Agency Date: 1/17/90

DISTRIBUTION (BY PREPARER)
 LEGISLATIVE FINANCE
 LEGISLATIVE SPONSOR

REQUESTOR
 OFFICE OF MANAGEMENT & BUDGET
 AGENCY (IES)

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 HOUSE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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