

## 2016 LEGISLATIVE SESSION: ATTORNEY GENERAL REQUEST LEGISLATION

### STRENGTHENING PENALTIES FOR OPEN PUBLIC MEETINGS ACT VIOLATIONS



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#### OBJECTIVE

Strengthen penalties for violations of the Open Public Meetings Act.

#### PROBLEM

The Washington State's Open Public Meetings Act (OPMA) assures government accountability and transparency by requiring state and local governing bodies to deliberate and make decisions in public.

When the OPMA is violated, the public's trust is eroded. However, the current \$100 civil penalty for knowingly violating the OPMA has not been updated since the law was codified in 1971. Moreover, the OPMA does not address repeat violations.

These provisions should be modernized to strengthen public confidence in open government.

#### BACKGROUND

Enacted in 1971, the OPMA (RCW 42.30) requires that meetings of city councils, school boards, county councils, state boards and commissions, and other multi-member public agencies be conducted in public.

The OPMA authorizes a court to assess a \$100 civil penalty against each member of a governing body who attends a meeting where action is knowingly taken in violation of the OPMA. The member is personally liable and responsible for the penalty. While the public agency does not pay the penalty, the agency pays attorneys' fees and costs.

Unchanged for 45 years, the \$100 penalty has lost its potency to deter violations due to inflation. A \$100 fine in 1971 would be worth about \$500 today.<sup>1</sup> The OPMA does not include added penalties for repeat violations.

These outdated elements put Washington's transparency laws behind those in other states. Arizona, Florida, Idaho, Iowa, Kansas, Minnesota, Mississippi, Nevada, Rhode Island and Virginia all have higher penalties for open meetings violations. At least one state, New Jersey, has higher penalties for repeat violators.

#### LEGISLATION (HB 2353 / SB 6171)

This legislation will update the OPMA to:

- Increase the penalty to \$500 for a knowing first violation by a governing body member.
- Enact a new \$1,000 penalty for any subsequent knowing violation by a governing body member.

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1. The Bureau of Labor Statistics CPI Inflation Calculator calculates that \$100 in 1971 has the same buying power as \$587.25 in 2015. [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)