

***State Government***

***HB 1384***

***Brief Description:*** *Clarifying the circumstances under which the governing body of a public agency may hold an executive session to discuss litigation.*

***Sponsors:*** *Representatives Romero, McMorris, Simpson, Conway, Miloscia, Haigh, D. Schmidt, Clements, Delvin, Hunt, Lambert, Benson and Schindler.*

***Brief Summary of Bill***

- *Clarifies the definition of "potential litigation" for purposes of the Open Public Meetings Act.*
- *Requires a public body holding an executive session under the "potential litigation" exception to keep minutes of the session.*
- *Requires the State Auditor to provide information, technical assistance, and training on the provisions of the Open Public Meetings Act.*

***Hearing Date:*** *2/5/01*

***Staff:*** *Jim Morishima (786-7191).*

***Background:***

*Under the Open Public Meetings Act (OPMA), a public body may not hold a meeting at which the official business of the body is transacted unless the meeting is open to the public. Unless there is an emergency, the public must be given advance notice of all meetings. Citizens may bring court actions to challenge the validity of past meetings, or to enjoin future violations of the act. Actions taken at a meeting in violation of the OPMA are void. A public official knowingly attending a meeting in violation of the OPMA can be subject to a civil penalty.*

*Public bodies may hold executive sessions out of the public eye for certain enumerated purposes. One of these purposes is to discuss with legal counsel litigation or potential*

*litigation to which the body is likely to become a party, when knowledge of the discussion is likely to result in adverse legal or financial consequences.*

***Summary of Bill:***

*A public body may not hold an executive session under the "potential litigation" exception simply because an attorney is present or is consulted on a matter. "Potential litigation" is defined to mean:*

- Litigation that has been specifically threatened; or*
- Litigation that the public body reasonably believes will be commenced by or against the body. A public body holding an executive session under this part of the exception must state in the minutes of the meeting the reasons why the body believes litigation will be commenced.*

*A public body holding an executive session under the "potential litigation" exception must record minutes of the session. The minutes are not subject to public inspection and copying unless a court determines that the executive session was improper.*

*The State Auditor must provide information, technical assistance, and training on the provisions of the OPMA.*

***Rulemaking Authority:*** *No express authority.*

***Effective Date:*** *Ninety days after adjournment of session in which bill is passed.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Not Requested.*