

SENATE BILL REPORT

SHB 1105

As Reported by Senate Committee On:
State Government & Elections, March 28, 2023

Title: An act relating to requiring public agencies to provide notice for public comment that includes the last date by which such public comment must be submitted.

Brief Description: Requiring public agencies to provide notice for public comment that includes the last date by which such public comment must be submitted.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Kloba, Abbarno and Thai).

Brief History: Passed House: 3/6/23, 95-0.

Committee Activity: State Government & Elections: 3/24/23, 3/28/23 [DPA].

Brief Summary of Amended Bill

- Requires that public agencies soliciting public comment for statutorily specified periods of time provide notice of the first and last date and time which public comment will be accepted.
- Establishes penalties for agencies failing to provide notice.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato, Hasegawa and Kuderer.

Staff: Samuel Brown (786-7470)

Background: Open Public Meetings Act. The meetings of the governing body of a public agency must, with limited exceptions, be open to the public. The Open Public Meetings Act

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(OPMA) grants public access to all meetings involving the transaction of official business, such as receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. Governing bodies may not adopt any ordinance, resolution, rule, regulation, order, or directive outside of a properly noticed meeting that is open to the public. The governing body of a public agency may enter into executive session for deliberations, and exclude the members of the public from the executive session, under certain circumstances.

The member of a governing body who attends a meeting in violation of any provision of OPMA with knowledge of the violation may be charged a civil penalty of \$500 for the first violation and \$1,000 for any subsequent violation. Any person may bring an action in superior court to enforce such a penalty.

Notice of Public Comment Periods. Various statutes mandate that an agency solicit public comment on a matter and provide notice of the public comment period. For example, under the Administrative Procedures Act (APA), an agency must accept written comment about a proposed rule received by the time and date specified in the State Register for a rulemaking hearing. The Project Review Committee of the Capital Projects Advisory Review Board must provide notice of its public meetings and receive both written and oral comments at each public meeting. The Department of Ecology must hold public hearings, provide notice of the hearings, and accept written comments during the 60-day period before, and seven-day period after, hearings to adopt or amend guidelines under the Shoreline Management Act.

Summary of Amended Bill: Public agencies required by state law to solicit public comment for a specified period of time and provide notice of the solicitation must also specify the first and last date and time written public comments may be submitted.

A public agency that fails to provide the notice of the first and last date and time written public comments may be submitted is subject to the same penalties as the member of a governing body is for other OPMA violations. No member of the agency is personally liable for a violation of the act.

EFFECT OF STATE GOVERNMENT & ELECTIONS COMMITTEE AMENDMENT(S):

Notice of the public comment solicitation period must also include the first date public comments may be submitted, and the time by which comments must be submitted. An agency that fails to provide notice is subject to the same penalties as the member of a governing body who violates another provision of OPMA, and liability ensues regardless of whether a meeting occurs. Agency members are not personally liable for violations of the act.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This was inspired by a constituent who found the process to submit comments about a local permit issued by the Department of Ecology confusing: when did the comment period start? Are weekends and holidays counted? This is a good government transparency bill so we can have the kind of commentary so that governing bodies can make good decisions and hear from people in our communities. This will help citizens budget their time and improve the public comment process.

Persons Testifying: PRO: Representative Shelley Kloba, Prime Sponsor; Joe Kunzler, None.

Persons Signed In To Testify But Not Testifying: No one.