

LFC Requester:	Randall Soderquist
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X Committee / Floor Amendment
Correction Committee Substitute

Date 1/16/13
Bill No: HB 21

Sponsor: Rep. James E. Smith **Reviewing Agency:** Attorney General's Office
Short Public Meeting Agendas 72 **Person Writing** Betsy Glenn
Title: Hours in Advance **Phone:** 827-6425 **Email** eglenn@nmag.gov

SECTION II: FISCAL IMPACT ** FOR LFC OFFICIAL PURPOSES**
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 21 amends the Open Meetings Act to:

- increase the time that public bodies must make the final agenda available from at least 24 hours prior to a meeting to at least 72 hours, except in the case of an emergency or for public bodies that ordinarily meet more than once a week.
- require a public body that takes action on an emergency matter to report the action and the nature of the emergency to the Attorney General’s Office.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

SIGNIFICANT LEGAL ISSUES

Currently, the Open Meetings Act does not specify the amount of advance notice a public body must provide for its meetings. Instead, the Act requires a public body to provide “reasonable” advance notice of its meetings. This lets each public body determine how much advance notice is appropriate given all the circumstances, including the type of meeting, the type of public body, the size of its constituency, etc. By requiring meeting agendas to be made available at least 72 hours before a meeting, HB 21 effectively requires public bodies to provide at least 72 hours advance public notice for their meetings.

HB 21, like the current provisions of the Open Meetings Act, permits a public body to take action on an item that does not appear on the meeting agenda only in the case of an “emergency,” as defined in the Act. Requiring every state and local public body to report to the Attorney General’s Office within 5 days of taking action on an emergency matter may be viewed as unnecessarily intrusive into the business of public bodies, particularly local government bodies. Unless there is evidence that public bodies routinely take action on “emergency” matters that do not appear on the agenda or it is otherwise clear that this requirement warrants closer scrutiny than the other requirements of the Act, the utility of the reporting requirement in this context is not apparent.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

TECHNICAL ISSUES OR DRAFTING ERROR

Section 1, p. 4, lines 9-14. This sentence is awkward and hard to follow. Possible alternative wording is: “The agenda shall be available to the public and posted on the public body’s website, if one is maintained, at least seventy-two hours prior to the meeting, except in the case of an emergency or if a public body ordinarily meets more than once per week.”

OTHER SUBSTANTIVE LEGAL ISSUES

ALTERNATIVES TO ENACTING THIS BILL

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. The current requirement that agendas be made available at least 24 hours before a meeting will continue to apply.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

See suggestion above under “Technical Issues or Drafting Error.”