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## HOUSE REPUBLICAN STAFF ANALYSIS

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Bill: Senate File 289  
Committee: State Government  
Date: May 12, 2011  
Staff: Kristi Kielhorn (2-5290)  
Members: Representative Koester

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### Open Meetings/Open Records Policy

Senate File 289 makes policy changes and updates the laws regarding open meetings (Ch. 21) and open records (Ch. 22).

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### Summary of Action

Passed Senate State Government 15-0  
Passed Senate 48-0  
Passed House State Government 23-0  
Passed House 98-0  
Signed by Governor

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### Section by Section Analysis

#### Section 1—Personnel Report

This section strikes the criminal penalty (simple misdemeanor) for a violation of the code section directing DAS to compile a report with personnel information of all state departments, boards and commissions.

#### Sections 2 and 3—Records and Reports

These sections update language to account for future changes in sunshine laws.

#### Section 4—Open Meetings/Reconvening a Meeting

This section requires that township trustees provide notice of open meetings (previously excepted). It also requires that notice is given of reconvened meetings. An exception to the notice requirement is allowed if a meeting is reconvened within four hours of recess and an announcement was made at the original meeting. An exception would also be appropriate if the meeting was of a subunit of a parent government body and it was announced at the parent body meeting.

#### Section 5—Closed Session

This section adds that a governmental body may go into closed session to discuss the sale (previously only a purchase) of real estate, if holding the meeting in open session could reasonably reduce the price the government body would receive.

#### Section 6—Updating Technology Language

This section changes references of “tape” to “audio” to account for changes in technology.

#### Section 7—Penalties

This section adds that if someone knowingly violates the requirements of Chapter 21 (open meetings), damages shall be between \$1000 and \$2500. Currently, a violation (knowingly or not) carries a fine of between \$100—\$500. This section also adds *reasonable reliance* on an oral opinion from the government body’s attorney (memorialized in the meeting minutes), a written opinion from the attorney for the government body, or an advisory opinion from the attorney general’s office as a defense to violations.

#### Section 8—Confidential Records

This section makes appraisal information concerning the sale or purchase of real or personal property for public purposes confidential until a sales contract or offer is made.

#### Section 9—Public Defense

This section strikes personal information in confidential personnel records of the military division of the department of public defense in the state from the list of records that are confidential (in effect makes them public).

#### Section 10—Personal Information in Personnel Records

This section amends the exemption from public records for some personal information in confidential personnel records of government employees. It keeps the exemption, but makes the following information public:

- Name and compensation (includes benefits)
- Dates employed
- Positions held
- Educational institutions attended and degrees earned
- Previous employers and positions
- The fact that the individual was discharged as the result of a final disciplinary action up on the exhaustion of all contractual, legal, and statutory remedies

#### Section 11—Civil Enforcement

This section adds that if someone knowingly violates the requirements of Chapter 22 (open records), damages shall be between \$1000 and \$2500. Currently, a violation (knowingly or not) carries a fine of between \$100—\$500. This section also adds *reasonable reliance* on an oral opinion from the government body’s attorney (memorialized in the meeting minutes), a written opinion from the attorney for the government body, or an advisory opinion from the attorney general’s office as a defense to violations.

#### Section 12—Criminal Penalties

This section strikes the section stating civil penalties in an open record’s case do not preclude criminal prosecution.

#### Section 13—Settlements

This section strikes the section that makes only a summary of settlements made by the government public (but keeps the actual settlements confidential). This section makes government settlement agreements public. It also states that the summary of the resolution need only be done if requested.

#### Section 14—Investment Records

This section makes a fiduciary or third party liable for penalties for failing to produce records of public investment transactions within a reasonable time.

#### Section 15—Waiver of Privilege (Environmental Audits)

This section removes the criminal penalties for a government official who discloses information in violation of the confidentiality laws in Chapter 455K (Environmental Audit Privilege and Immunity).

#### Section 16—Criminal Penalties

This section removes the criminal penalties from Chapter 22 (open records). Note that there never were criminal penalties in Chapter 21 (open meetings) so there was not an equivalent to get rid of.

Section 17—Effective Date: Upon enactment