

News and Tribune, Bill would fine officials who violate public access law

News and Tribune

January 10, 2012

Bill would fine officials who violate public access law

BY MAUREEN HAYDEN

CNHI

INDIANAPOLIS — Indiana Attorney General Greg Zoeller strongly endorsed legislation that would allow judges to fine public officials who deliberately flaunt public-access laws.

During a committee hearing on the bill Tuesday, Zoeller questioned whether the proposed fines were steep enough, but urged lawmakers to pass the bill to send a message to their constituents.

“This may not be the most important bill you’ll pass out of this session, but it says a lot about our commitment and about the way we serve the public,” Zoeller said.

The bill would allow a judge to levy a fine of up to \$100 for a first offense and up to \$500 for a repeat offender. The public official would have to pay the fine out of his or her own pocket.

Steve Key, executive director of the Hoosier State Press Association, said more than 30 states have civil and/or criminal penalties for public officials who intentionally violate their open-meetings and open-records laws. Some states carry the penalty of removal from office for violators.

The bill is intended to put some teeth into the state’s existing public-access law that gives the public and the media the right to be notified of public meetings and to access public documents. Similar legislation has failed in past sessions.

Under current law, if someone is denied access to a public document or government meeting, the only recourse that person has is to file a civil lawsuit.

Some committee members complained that the state’s public access law is burdensome and they questioned whether tougher penalties for violating the law wouldn’t harm public officials who mistakenly broke the law.

Zoeller said the new law would only apply to public officials who “knowingly and intentionally” flaunted the law. He said public officials who have questions about what’s covered by the current law can seek guidance from the state’s Public Access Counselor. Zoeller said a public official would have to deliberately disregard the legal opinion of the public access counselor to be subject to the fine.

Republican state Rep. Kevin Mahan, chairman of the House government reform committee that heard the bill, delayed a vote on it after some questions arose about a piece of the bill that would require local governments to send emails to any citizen interested in getting a public notice about a pending public meeting.

Officials with the Indiana Association of Cities and Towns and the Association of Indiana Counties said that requirement may be too costly for some local governments to bear.

But Mahan, a former Blackford County sheriff, said costs would be minimal and that local officials needed to abide by the public-access law.