

S-2/10/99 Judiciary of  
S-3/2/99 Do Pass

JAN 28 1999

Place On Calendar

HOUSE FILE 164  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 72)

Passed House, <sup>(P. 326)</sup> Date 2/10/99 Passed Senate, <sup>(P. 734)</sup> Date 3/23/99  
Vote: Ayes 93 Nays 3 Vote: Ayes 48 Nays 0  
Approved March 31, 1999

**A BILL FOR**

1 An Act concerning the open meetings statute by permitting the  
2 awarding of appellate attorney fees for a successful action  
3 involving the statute.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 164

1 Section 1. Section 21.6, subsection 3, paragraph b, Code  
2 1999, is amended to read as follows:

3 b. Shall order the payment of all costs and reasonable  
4 attorneys fees in the trial and appellate courts to any party  
5 successfully establishing a violation of this chapter. The  
6 costs and fees shall be paid by those members of the  
7 governmental body who are assessed damages under paragraph "a"  
8 ~~of this subsection~~. If no such members exist because they  
9 have a lawful defense under that paragraph to the imposition  
10 of such damages, the costs and fees shall be paid to the  
11 successful party from the budget of the offending governmental  
12 body or its parent.

13 EXPLANATION

14 This bill provides that a court may award both trial and  
15 appellate attorney fees to a party who establishes that a  
16 governmental body has violated the open meetings law. The  
17 Iowa supreme court has determined, based on current law, in a  
18 1998 court opinion that only trial, but not appellate,  
19 attorney fees can be awarded if a violation of Code chapter 21  
20 is established.

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HOUSE FILE 164  
FISCAL NOTE

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A fiscal note for House File 164 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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This bill provides that the court may award both trial and appellate attorney fees to a party who establishes that a governmental body has violated the Open Meetings law. The Iowa Supreme Court determined, in a 1998 decision, that trial, and not appellate, attorney fees can be awarded if a violation of the law occurs.

**ASSUMPTION**

Three appellate cases of Open Meeting Violations take place in a year.

**FISCAL IMPACT**

The fiscal impact of House File 164 is estimated to be minimal.

**SOURCES**

Judicial Department

(LSB 1054hv, CRS)

FILED FEBRUARY 3, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 164

House File 164, p. 2

AN ACT  
CONCERNING THE OPEN MEETINGS STATUTE BY PERMITTING THE  
AWARDING OF APPELLATE ATTORNEY FEES FOR A SUCCESSFUL  
ACTION INVOLVING THE STATUTE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 21.6, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. Shall order the payment of all costs and reasonable attorneys fees in the trial and appellate courts to any party successfully establishing a violation of this chapter. The costs and fees shall be paid by those members of the governmental body who are assessed damages under paragraph "a" ~~of this subsection~~. If no such members exist because they have a lawful defense under that paragraph to the imposition

of such damages, the costs and fees shall be paid to the successful party from the budget of the offending governmental body or its parent.

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 164, Seventy-eighth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved *J* March 31, 1999

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THOMAS J. VILSACK  
Governor

HF 164