



**House  
Legislative  
Analysis  
Section**

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**PAROLE BOARD DELIBERATIONS**

**RECEIVED**

House Bill 4338 as introduced  
First Analysis (4-1-87)

**MAY 07 1987**

Sponsor: Rep. Roland G. Niederstadt  
Committee: Corrections

H.B. 4338 (4-1-87)

**THE APPARENT PROBLEM:**

Since 1978, the corrections code has provided that parole board meetings be subject to the Open Meetings Act. However, the seven-member board in recent years followed Public Act 314 of 1982, which amended the code to allow the creation of rules for what is basically a closed process of parole review by three-member panels. Under that process, a file is reviewed by two or three members in succession, and a hearing is held only if one of the first two reviewers votes against parole. A prisoner may not be denied parole without an interview.

In September of 1986, a prisoner filed suit seeking to invalidate a parole denial on the basis that the parole board had failed to comply with the Open Meetings Act. The Department of Attorney General concurred that the Open Meetings Act applied and should have been followed, and negotiated a stipulation and order of dismissal in Ingham County Circuit Court in which the corrections department agreed to pay attorney fees, comply with the open meetings act in parole board decisions, and reconsider the parole decision.

According to the Department of Corrections, having to comply with the Open Meetings Act means that parole decisions are delayed by two to three weeks because of the need to assemble the full panel at an open meeting for which adequate notice had been given. It has been proposed that the parole board be exempted from the Open Meetings Act so that it may continue to use the panel procedures sanctioned by the legislature in 1982.

**THE CONTENT OF THE BILL:**

The bill would amend the corrections code, Public Act 232 of 1953, to delete a requirement that the business of the parole board be conducted at a public meeting held in compliance with the Open Meetings Act (MCL 791.202).

**FISCAL IMPLICATIONS:**

Fiscal information is not available at present (3-31-87).

**ARGUMENTS:**

**For:**

The bill would enable the parole board to resume the method of review by three-member panels that it has used successfully in recent years. Without the bill, the panels would have to comply with the Open Meetings Act, necessitating delays and creating backlogs in parole processing, and reducing the amount of time available for file review and interviews with prisoners. Further, the bill would preserve requirements for public hearings prior to parole or commutation for prisoners sentenced to life in prison. The bill also would not affect the Crime Victims' Rights Act, which provides victims with procedures under which they may express their opinions to the parole board and receive information on board decisions.

**Against:**

The bill may be insufficient to exempt the parole board from the Open Meetings Act. That act is quite explicit in listing the exceptions to it, and the parole board is not among the exceptions. In order to fully ensure that the parole board does not have to comply with the Open Meetings Act, that act would have to be amended.

**Response:** The general structure of the Open Meetings Act is that of requiring policy-making to be public, but allowing adjudicative proceedings to be private. The act's definition of "meeting" is predicated on "the purpose of deliberating toward or rendering a decision on a public policy." The act also states that it does not apply to "judicial proceedings", and its exemptions for certain boards apply when a board such as the worker's compensation appeal board is "deliberating the merits of a case." The bill should be sufficient to relieve the parole board from the unnecessary and time-consuming requirements of the Open Meetings Act.

**POSITIONS:**

The parole board supports the bill (3-31-87).

The Department of Corrections supports the bill (4-1-87).