

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3226-01  
Bill No.: HB 870  
Subject: Public Records, Public Meetings; State Departments; Sunshine Law, Meetings and Records  
Type: Original  
Date: February 24, 2004

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown exceeding \$100,000)</b>	<b>(Unknown exceeding \$100,000)</b>	<b>(Unknown exceeding \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Higher Education, Central Missouri State University, Department of Economic Development (DED) - Public Service Commission, Department of Mental Health, Department of Labor and Industrial Relations, Department of Revenue - State Tax Commission, Department of Social Services - Division of Research and Evaluation, Missouri Department of Transportation, Department of Public Safety (DPS) - Division of Alcohol and Tobacco Control, DPS - Director's Office, DPS - Division of Fire Safety, DPS - Missouri State Highway Patrol, DPS - Missouri Veterans' Commission, DPS - State Emergency Management System, DPS - Missouri State Water Patrol, DPS - Capitol Police, Department of Insurance, Missouri Senate, Missouri Department of Transportation, Department of Revenue, Missouri Gaming Commission, Office of the Governor, Missouri Consolidated Health Care Plan, Linn State Technical College, Lincoln University, Missouri Ethics Commission, Missouri House of Representatives, Office of Lieutenant Governor, Public School Retirement System, Office of State Auditor, Department of Agriculture, Office of Secretary of State - General Counsel, City of Springfield, Office of State Public Defender, Office of State Treasurer, Department of Health and Senior Services, Southwest Missouri State University and Truman State University** assume the proposal would have no fiscal impact on their organizations.

ASSUMPTION (continued)

Officials from **Department of Elementary and Secondary Education (DES)** assume the proposal will have no fiscal impact on their organization. However, DES assumes the proposal would have a minimal administrative fiscal impact on local government funds.

Officials from the **Department of Natural Resources (DNR)** do not anticipate a significant fiscal impact from this proposal. Procedural changes will occur within the boards and commissions and any additional work as a result of filing or documenting electronic information will be absorbed by existing staff.

Officials from the **Office of State Courts Administrator (CTS)** state the proposal would update the Sunshine Law to cover public meetings using various electronic formats. This proposal will place a significant burden on the judiciary as the CTS assumes that it will apply to all judicial committees.

The CTS will need to develop a web site or electronic bulletin board to announce any meetings that take place other than in the physical presence of each other. This applies to electronic votes as well. Additionally, a place for the public to observe must be provided, so the CTS will need to either provide sufficient call-in lines on a conference call or a physical location where they can attend and hear, and a public vote forum if a vote is electronic, to meet this requirement. A publicly visible voting mechanism may be needed. The CTS has developed none of these at the present time.

Sections 610.023.1 and 610.023.2 require the formal appointment of records custodians. Previously, the CTS had a records custodian. This position was eliminated during recent budget cuts.

While the CTS cannot provide a precise estimate of the cost of this proposal at the present time, it assumes that it could easily exceed \$100,000.

Officials from the **Missouri Department of Conservation (MDC)** assume the proposed legislation would have a minimal impact on MDC funds.

Officials from the **COA - Office of Information Technology** assume the proposal would have no fiscal impact and an insignificant administrative impact.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

Officials from the **Office of Administration (COA)- Deputy Commissioner's Office** state public governmental bodies may charge fees to the public requesting information on open records and meetings. These fees would include items such as copying or employee time for research. Also, penalties and/or legal costs may be incurred by public governmental bodies for any legal action taken against them regarding open or closed records and meetings. These possible revenues and expenses are unknown and may not even be incurred. Therefore, an assumption of no fiscal impact is being made.

COA officials also state, regarding Section 610.023, that an assumption is being made that the appointed custodian responsible for the maintenance of the governmental body's records will be someone already on staff and the duties will be in addition to his/her regular duties.

Officials from the **City of Kansas City - Law Department (CKC)** state the proposal could result in new equipment and maintenance costs for speaker phones, computers for e-mail responses, or other electronic devices. Costs would be dependent upon current equipment availability and the number of meetings held through electronic means and cannot be judged with specificity. This is also the case for providing access to the new means of meeting through chat rooms and other technological means described in the proposed section 610.020.

The proposed section 610.023.3 provides that messages sent to a majority of a public governmental body will be sent to the custodian of records and archived. Depending upon the use of this section, costs for electronic storage will be incurred in addition to those already incurred by maintaining e-mail records. The amount will be dependent upon the number of such messages and cannot be judged with specificity at this point.

The CKC will be responsible for providing public computers to those who do not have home computer access. Therefore, public computer access now available through libraries will be duplicated. Costs of individual personal computer stations will vary by technology. Space, hardware, and software costs could approach \$1,000 for each work station. The total cost will be dependent upon the ultimate resolution of what is "reasonable access" to such electronic meetings and how many computers must be made available.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Office of State Courts</u>			
<u>Administrator</u>			
Personal service costs, expense and equipment for public meetings using electronic formats	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown exceeding \$100,000)</u></b>	<b><u>(Unknown exceeding \$100,000)</u></b>	<b><u>(Unknown exceeding \$100,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>POLITICAL SUBDIVISIONS</b>			
<u>Costs - Political Subdivisions</u>			
Expense and equipment for public meetings using electronic formats	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes various changes to the Sunshine Law. In its main provisions, the bill: (1) Expands the definition of "public meeting" to include meetings conducted by conference call, video conference, Internet chat, or Internet message board; (2) Expands the definition of "public vote" to include votes conducted by telephone or any other electronic means; (3) Prohibits public governmental bodies from conducting votes at public meetings unless the question voted upon is put to that body's members at the same time and the public is allowed access to the vote; (4) Requires notice of public meetings conducted by telephone or other electronic means to identify

DESCRIPTION (continued)

the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting; (5) Requires a public body, if it plans to meet by Internet chat, Internet message board, or other computer link, to post a notice of the meeting on the public body's web site in addition to its principal office; to notify the public how to access the meeting; and to ensure that reasonable access is granted to those members of the public that do not have access to a home computer; (6) Requires public bodies to allow public meetings to be recorded by audiotape, videotape, or other electronic means and allows the public body to establish recording guidelines; (7) Requires that when a public governmental body member transmits either a written or electronic message relating to public business to one or more members of that body so that, including the sender, a majority of the body's members are copied, the sender also must transmit the message to the custodian of records concurrently and in the same format. The messages received by the custodian will be public record subject to the exceptions of Section 610.021, RSMo; and (8) Allows e-mail or electronic requests for public records to be responded to in the same format.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General  
Department of Agriculture  
Department of Higher Education  
Office of State Courts Administrator  
Department of Economic Development -  
    Public Service Commission  
Department of Elementary and Secondary Education  
Missouri Department of Transportation  
Department of Mental Health  
Department of Natural Resources  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Revenue -  
    Missouri Tax Commission  
Department of Social Services

SOURCES OF INFORMATION (continued)

Department of Public Safety -  
    Division of Alcohol and Tobacco Control  
    Director's Office  
    Division of Fire Safety  
    Missouri State Highway Patrol  
    Missouri Veterans' Commission  
    State Emergency Management System  
    Missouri State Water Patrol  
Missouri Gaming Commission  
Office of the Governor  
Missouri Consolidated Health Care Plan  
Missouri House of Representatives  
Department of Insurance  
Missouri Department of Conservation  
Office of Administration -  
    Deputy Commissioner's Office  
    Office of Information Technology  
Office of Lieutenant Governor  
Public School Retirement System  
Office of State Auditor  
Office of Secretary of State  
Missouri Senate  
Office of State Treasurer  
Missouri Ethics Commission  
Office of State Public Defender  
Missouri Ethics Commission  
Public School Retirement  
Central Missouri State University  
Linn State Technical College  
Lincoln University  
Truman State University  
Southwest Missouri State University  
City of Kansas City -  
    Law Department  
City of Springfield

SOURCES OF INFORMATION (continued)

**NOT RESPONDING: Department of Corrections, Missouri Lottery Commission, Harris-Stowe College, Missouri Western State College, Missouri Southern State College, Northwest Missouri State University, Southeast Missouri State University, University of Missouri, Boone County, Callaway County, Cass County, Cape Girardeau County, Clay County, Franklin County, Greene County, Jackson County, Jefferson County, Marion County, Platte County, St. Louis County, Taney County, Warren County, City of St. Louis, City of Columbia, and City of St. Joseph**



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Director  
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