

HB 1402 -- Open Records Law

Sponsor: Goodman

This bill makes changes to the Open Records Law. In its main provisions, the bill:

- (1) Includes the curators of the University of Missouri in the definition of "public governmental body";
- (2) Includes bi-state development agencies in the definition of "quasi-public governmental body";
- (3) Requires that a journal or minutes of closed meetings be taken and retained by public governmental bodies;
- (4) Authorizes public governmental bodies to close meetings, records, and votes relating to:
 - (a) Imminent causes of action or litigation involving the public governmental body. Currently, public governmental bodies are authorized to close meetings, records, and votes relating to all causes of action;
 - (b) Operational guidelines and policies adopted and maintained by public agencies responsible for law enforcement and public safety for use in responding to or preventing terrorist incidents, when the agencies state in writing that disclosure would impair the agencies' protection duties and public interest in nondisclosure outweighs public interest in disclosure. Information regarding expenditures and contracts made by agencies in implementing these policies is not exempt. This exception sunsets on December 31, 2006;
- (5) Requires that the amount and source of private donations to the salary of a chancellor or president of the University of Missouri system be disclosed;
- (6) Requires that the names of the final slate of candidates for chief executive officers of public governmental bodies be disclosed;
- (7) Requires that all final audit reports by the auditor of a public governmental body be considered open public records;
- (8) Allows a member of a public governmental body to record an objection in the minutes to closing a meeting or vote. The objecting member then may stay for the meeting or vote, and the record objection will be an absolute defense to any claim pursuant to Section 610.027, RSMo, providing for actions against

public governmental bodies and their members and the imposition of monetary penalties;

(9) Changes the fee for furnishing copies of public records from the actual cost of document search and duplication to 10 cents per page for paper copies and the hourly rate of pay for clerical staff, with the first half-hour at no charge;

(10) Prohibits the custodian of public records that are the subject of a civil action to enforce the laws from transferring custody, altering, destroying, or otherwise disposing of the records;

(11) Changes the civil fine of up to \$500 and order of payment of the successful party's costs and reasonable attorney fees to a civil penalty of \$1,000 to \$5,000 and payment of the successful party's costs and reasonable attorney fees upon a finding of a purposeful violation of the law by a public governmental body or its members or a law enforcement agency;

(12) Requires a court, upon a finding of a negligent violation of the law by a public governmental body or its members or a law enforcement agency, to impose a civil penalty of \$25 to \$1,000 and gives the court discretion to order payment of the successful party's costs and reasonable attorney fees;

(13) Provides that, in determining the amount of the penalty for either a negligent or purposeful violation of the law by a public governmental body or its members or a law enforcement agency, the court must consider the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or its members has previously violated the laws;

(14) Requires a public governmental body, when developing an electronic record-keeping system, to do so in a common format that is not an impediment to public access; and

(15) Deletes the provision prohibiting law enforcement agencies from releasing accident or incident reports for 60 days to any person who is not an interested party.

The bill has a sunset date of December 31, 2006, for Section 610.021(18), which excludes from the Open Records Law, law enforcement or public safety agencies' operational guidelines and policies for responding to or preventing terrorist activities.