

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5039-01  
Bill No.: HB 1263  
Subject: Public Records; Public Meetings; Telecommunications  
Type: Original  
Date: February 10, 2014

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Bill Summary: This proposal defines terms relating to electronic public and business records.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |                                     |                                     |                                     |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| FUND AFFECTED   | FY 2015                             | FY 2016                             | FY 2017                             |
| General Revenue   | (Could exceed<br>\$345,000)         | (Could exceed<br>\$396,750)         | (Could exceed<br>\$456,263)         |
|   |                                     |                                     |                                     |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>(Could exceed<br/>\$345,000)</b> | <b>(Could exceed<br/>\$396,750)</b> | <b>(Could exceed<br/>\$456,263)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |                         |                         |                         |
|---|-------------------------|-------------------------|-------------------------|
| FUND AFFECTED   | FY 2015                 | FY 2016                 | FY 2017                 |
| Other State Funds   | \$0 or (Unknown)        | \$0 or (Unknown)        | \$0 or (Unknown)        |
|   |                         |                         |                         |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0 or (Unknown)</b> | <b>\$0 or (Unknown)</b> | <b>\$0 or (Unknown)</b> |

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

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2015    | FY 2016    | FY 2017    |
|   |            |            |            |
|   |            |            |            |
| <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 FULL TIME EQUIVALENT (FTE)</b> |          |          |          |
|---|----------|----------|----------|
| FUND AFFECTED   | FY 2015  | FY 2016  | FY 2017  |
|   |          |          |          |
|   |          |          |          |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0</b> | <b>0</b> | <b>0</b> |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |            |            |            |
|--|------------|------------|------------|
| FUND AFFECTED                              | FY 2015    | FY 2016    | FY 2017    |
| <b>Local Government</b>                    | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Department of Agriculture, Administrative Hearing Commission, Office of Administration - Budget and Planning, Bi-State Development, Office of Administration, Office of the State Courts Administrator, Department of Elementary and Secondary Education, Department of Transportation, Department of Insurance, Financial Institutions and Professional Registration, Department of Mental Health, Department of Natural Resources, Department of Corrections, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Higher Education, Department of Revenue, Department of Social Services, Department of Public Safety (Capitol Police, Division of Alcohol and Tobacco and Fire Safety), Missouri Gaming Commission, Missouri Consolidated Health Care Plan, MoDOT & Patrol Employees' Retirement System, Joint Committee on Public Retirement, Legislative Research, Missouri Lottery Commission, Missouri Ethics Commission, Missouri Lieutenant Governor, Missouri National Guard, Missouri State Employees Retirement System, Public Service Commission, Office of the State Auditor, Office of the State Public Defender, Office of the State Treasurer, State Tax Commission** and the **Missouri Veterans Commission** assume the proposal will have no fiscal impact on their respective organizations.

In response to a similar proposal from last year (HB 697), officials from the **Attorney General's Office** assumed any potential cost arising from this proposal could be absorbed with existing resources.

Officials from the **Governor's Office** assume there should be no added cost to their office as a result of this measure.

Officials from the **Joint Committee on Administrative Rules** state this legislation is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Department of Economic Development - Missouri Housing Development Commission (MHDC)** state the MHDC does not have the technological capability to capture all the data included in the proposed language and therefore the fiscal impact is unknown.

Officials from the **Missouri Department of Conservation** estimated an unknown fiscal impact on the Department depending upon a review of processes, technologies, and electronic storage capacities. It is anticipated the impact would be less than \$100,000 annually.

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Missouri Highway Patrol** state the Highway Patrol currently does not save these types of messages, and the ability to capture and store text messages does not exist. The Patrol assumes that the same structure used to retain email will need to be implemented. This would increase the duties of the server support unit by approximately 500 hours per year for implementation, maintenance, and retrieval of text messages on mobile devices. The Patrol believes this impact can be absorbed. However, there would be a need for additional storage, servers and software at an additional cost of \$185,000.

Officials from the **Office of Administration** estimate a cost in excess of \$345,000 for software and maintenance to manage electronic records covered by the proposal. It is anticipated that cost would increase by 15% based on estimated growth in the number of E-messages. As social media is an emerging technology, it is difficult to gauge what social media sites will need to be covered and in what form these sites will be developed. For the above factors it is unknown as to the actual cost, but is expected to be in excess of \$345,000 in the first year, \$396,750 in the second year, and \$456,263 in the third year.

With the mixture of 'no fiscal impact' responses and 'unknown negative fiscal impact' responses, **Oversight** will reflect an unknown fiscal impact of an amount that "Could Exceed" the estimate provided by the Office of Administration. Oversight will reflect a potential \$0 to unknown cost to Other State Funds.

| <u>FISCAL IMPACT - State Government</u>                     | FY 2015<br>(10 Mo.)                        | FY 2016                                    | FY 2017                                    |
|---|--|--|--|
| <b>GENERAL REVENUE</b>                                      |  |  |  |
| <u>Cost - to various state agencies</u>                     |  |  |  |
| To comply with the new definitions in §109.210              | (Could exceed<br><u>\$345,000</u> )        | (Could exceed<br><u>\$396,750</u> )        | (Could exceed<br><u>\$456,263</u> )        |
| <b>ESTIMATED NET EFFECT TO THE<br/>GENERAL REVENUE FUND</b> | <b>(Could exceed<br/><u>\$345,000</u>)</b> | <b>(Could exceed<br/><u>\$396,750</u>)</b> | <b>(Could exceed<br/><u>\$456,263</u>)</b> |

|  |                     |         |         |
|--|---------------------|---------|---------|
| <u>FISCAL IMPACT - State Government</u><br>(continued) | FY 2015<br>(10 Mo.) | FY 2016 | FY 2017 |
|--|---------------------|---------|---------|

**OTHER STATE FUNDS**

|   |                                    |                                    |                                    |
|---|------------------------------------|------------------------------------|------------------------------------|
| <u>Cost - to various state agencies</u><br>To comply with the new definitions in §109.210 | \$0 or<br><u>(Unknown)</u>         | \$0 or<br><u>(Unknown)</u>         | \$0 or<br><u>(Unknown)</u>         |
| <b>ESTIMATED NET EFFECT TO<br/>OTHER STATE FUNDS</b>                                      | <b>\$0 or<br/><u>(Unknown)</u></b> | <b>\$0 or<br/><u>(Unknown)</u></b> | <b>\$0 or<br/><u>(Unknown)</u></b> |

|   |                     |            |            |
|---|---------------------|------------|------------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2015<br>(10 Mo.) | FY 2016    | FY 2017    |
|   | <u>\$0</u>          | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal defines "data," as it applies to The State and Local Records Law, as a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and that has been processed or is intended to be processed in a computer or through other electronic means. Data may be stored in any form including, but not limited to, a printout, magnetic storage media, disk, a compact disc, punched card, or as memory of a computer. An "electronic record" is defined as a record created, generated, sent, communicated, received, or stored by electronic means but not as a means of backing up or duplicating information. The proposal specifies that metadata, either standing alone or associated with a record, is not an electronic record.

FISCAL DESCRIPTION (continued)

An "E-message" is defined as a message transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or other electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. An E-message may contain any combination of text, Internet uniform resource locator (URL) links, and attached files. E-messages include text messages sent over a cell phone or personal digital assistant (PDA) and messages posted or exchanged through social media. The bill specifies that E-messages that are electronic records include, but are not limited to, the following:

- (1) Policies and directives;
- (2) Correspondence or memoranda that contain final directives, determinations, instruction, or guidance regarding official business;
- (3) Minutes of governing boards, advisory groups, ad-hoc committees, or workgroups developing programs;
- (4) Messages that authorize, establish, or complete a business transaction; or
- (5) Final reports or recommendations of legislative committees or produced by official task forces or study groups. The bill specifies that E-messages that are not electronic records include, but are not limited to, the following:
  - (1) Duplicate copies of messages sent to multiple receivers;
  - (2) Personal messages and announcements not related to official business;
  - (3) Preliminary drafts of letters, reports, and memoranda;
  - (4) Forwarded messages that do not add substantive information to the message being forwarded;
  - (5) Copies of documents distributed for convenience or reference;
  - (6) Announcements of social events; and

FISCAL DESCRIPTION (continued)

(7) Unsolicited or commercial messages commonly known as spam or junk mail. The proposal defines "metadata" as secondary data that organize, manage, and facilitate the use and understanding of primary data. Metadata describes how, when, and by whom particular content was collected, how the content is formatted, and the nature of the content. Electronic records and E-messages are considered records; metadata are not considered records. The proposal defines "social media" as forms of electronic communication through which users create online communities to share information, ideas, messages, and other content.

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

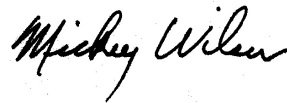
SOURCES OF INFORMATION

Attorney General's Office  
Department of Agriculture  
Administrative Hearing Commission  
Office of Administration - Budget and Planning  
Bi-State Development  
Office of Administration  
Office of the State Courts Administrator  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Transportation  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Natural Resources  
Department of Corrections  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Higher Education  
Department of Revenue  
Department of Social Services  
Department of Public Safety  
Missouri Gaming Commission  
Office of the Governor  
Missouri Consolidated Health Care Plan  
MoDOT & Patrol Employees' Retirement System  
Joint Committee on Administrative Rules

KC:LR:OD

SOURCES OF INFORMATION (continued)

Joint Committee on Public Retirement  
Legislative Research  
Missouri Lottery Commission  
Missouri Department of Conservation  
Missouri Ethics Commission  
Missouri Highway Patrol  
Missouri Lieutenant Governor  
Missouri National Guard  
Missouri State Employees Retirement System  
Public Service Commission  
Office of the State Auditor  
Office of the State Public Defender  
Office of the State Treasurer  
State Tax Commission  
Missouri Veterans Commission



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