

HCS HB 316 -- OPEN MEETINGS AND RECORDS LAW (Jones, 89)

COMMITTEE OF ORIGIN: Special Committee on General Laws

This substitute changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law. In its main provisions, the substitute:

- (1) Requires all records of the Missouri Ethics Commission to be open records except for any investigative reports prepared by commission employees regarding complaints until a decision is rendered and any reports of complaints that the commission dismisses. The respondent to a commission investigation may request that his or her records be sealed for good cause shown;
- (2) Requires all meetings of the commission to be open except those in which the commission discusses a pending complaint;
- (3) Specifies that a "quasi-public governmental body" will include any association that receives public funding through dues paid by a public governmental body or its members;
- (4) Requires the minutes to reflect a summary of the discussions that occurred at a closed meeting;
- (5) Specifies that only members of a public governmental body, their attorneys and staff assistants, and any necessary witnesses will be permitted in any closed meeting of the governmental body;
- (6) Specifies the criteria for the litigation exception to the open record disclosure. An actual lawsuit, a threat of a lawsuit, or a substantial likelihood of litigation must exist in order to close information regarding a cause of action;
- (7) Requires information to be made available in an electronic format if a public body keeps records in an electronic format. Data must be available in a format accessible to the public if it is stored in a data-processing program. Hospitals will not be compelled to violate their licensing agreements involving proprietary data-processing systems;
- (8) Increases the maximum penalty for a purposeful violation of Sections 610.010 - 610.026 from up to \$5,000 to up to \$8,000;
- (9) Allows courts to use the penalty of voiding a public body's actions when evaluating actions in violation of Sections 610.010 - 610.026 that occur at any meeting not only at closed meetings;
- (10) Requires any public meeting of a public governmental body

addressing issues regarding a fee or tax increase, eminent domain, zoning, capital improvement districts, commercial improvement districts, transportation development districts, or tax increment financing to give at least five days' notice prior to the meeting, exclusive of weekends and holidays when the facility is closed. The meetings must allow time for public comment. If proper notice is not given, any discussion on the issue must be postponed and no vote will be taken for at least 20 days after the public meeting. Votes may be taken on any issue for which the proper notice was provided;

(11) Allows records regarding internal investigations by law enforcement into the fitness or conduct of a law enforcement officer for employment purposes to remain closed. Criminal investigative reports and documents will be public records. Records regarding a proposal to license intellectual property submitted to public institutions of higher education may also be closed under certain circumstances;

(12) Requires any elected or appointed official, or their designated public information coordinator who is a member of a public governmental body subject to the Sunshine Law, to take a course on the Open Meetings Law by the Office of the Attorney General at no cost. The requirements of the course are specified, and it must be from one to two hours in length. The course must be taken by the individual within 90 days of taking the oath of office or assuming his or her responsibilities. Individuals holding office prior to January 1, 2009, must complete the training by January 1, 2010; and

(13) Specifies that a Missouri high school athletic association receiving public funds is a quasi-public governmental body for purposes of the Sunshine Law.

The provisions regarding the required training on the Sunshine Law become effective January 1, 2009.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown in FY 2010, FY 2011, and FY 2012. Estimated Cost on Other State Funds of \$92,250 in FY 2010, \$0 in FY 2011, and \$0 in FY 2012.