

HCS HB 1445 -- OPEN MEETINGS AND RECORDS LAW

SPONSOR: Jones (89)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 14 to 0.

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 introduced at a hearing and the record of a hearing of the Missouri Ethics Commission to be open records. On the motion of any party, the commission will, upon good cause shown, close any record to be introduced at a hearing including the record of the hearing. The order closing the record will be an open record and must state the reasons for closing it;
- (2) Requires the minutes to reflect a summary of the discussions that occurred at a closed meeting but not the disclosure of records or votes that are properly closed under Section 610.021, RSMo; however, nothing will allow the closure of records or votes that are open under Chapter 610;
- (3) Requires the governing body of any county, city, town, or village or any entity created by these political subdivisions to hold a public meeting and to allow public comment five business days prior to voting on an issue involving fee or tax increases, eminent domain, zoning, transportation development districts, capital improvement districts, community improvement districts, commercial improvement districts, or tax increment financing. If proper notice is not given, a vote cannot be held for at least 20 days after the public meeting for which the notice should have been given;
- (4) Requires a public comment period of at least one hour for all regular meetings of the State Board of Education. The board is allowed to cancel the comment period on the basis of an emergency by a unanimous vote;
- (5) 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;
- (6) Specifies that only members of a public governmental body, their attorney and staff assistants, and any necessary witnesses will be permitted in any closed meeting of the governmental body;

(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 for copying in a format easily accessible to the public if it is stored in a data-processing program. Certain hospitals will not be compelled to violate their licensing agreements involving proprietary data-processing systems for financial or patient medical record information or to disclose information not releasable to the public under any state or federal medical patient privacy laws;

(8) Specifies that in any legal proceeding, there will be a presumption that a meeting, record, or vote is open to the public. The burden to prove that it should be closed is on the public governmental body;

(9) Increases the maximum penalty for a purposeful violation of Sections 610.010 - 610.026 from up to \$5,000 to up to \$8,000 and the penalty for a knowing violation from up to \$1,000 to \$1,000 and requires a court to order payment by a violating body or member for all costs and attorney fees instead of allowing a court to order the payment;

(10) 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; and

(11) Requires any elected or appointed official who is a member of a public governmental body subject to the Sunshine Law to complete a course of training regarding the responsibilities of the body and its members 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 one year of taking the oath of office or assuming his or her responsibilities. Individuals holding office prior to January 1, 2010, must complete the training by January 1, 2011.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$245,203 to Unknown in FY 2011, \$216,517 to Unknown in FY 2012, and \$222,860 to Unknown in FY 2013. Estimated Cost on Other State Funds of \$83,295 to Unknown in FY 2011, \$92,531 to Unknown in FY 2012, and \$95,307 to Unknown in FY 2013.

PROPOSERS: Supporters say that the bill is a bipartisan effort for needed modifications to the Sunshine Law. The bill will enhance enforcement, provide fair comment periods for important issues, and require information to be disseminated in modern electronic formats.

Testifying for the bill were Representative Jones (89); Mid America Retail Food Industry Joint Labor Management Committee; Missouri Retailers Association; Missouri Press Association; Missouri Broadcasters Association; Stan Berry; Scott Eckersley; and David Cook.

OPPONENTS: Those who oppose the bill say that it makes the law even more complex and may inadvertently penalize many small cities and persons holding voluntary positions in city government. Penalties should not be increased. Currently, the requirements of the Sunshine Law are specified in a 40-page manual issued by the Office of the Attorney General.

Testifying against the bill were Missouri Municipal League; and St. Louis County Municipal League.