

HCS HB 1970 -- OPEN MEETINGS AND RECORDS LAW

SPONSOR: Cox (Jones, 117)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 9 to 1.

The substitute changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law. The substitute:

(1) Requires the definition of a "public record" to include any lease, sublease, rental instrument, or similar instrument entered into by a public body, any sublease of a publicly owned facility, or any other agreement for the rental, construction, or renovation of the facility;

(2) Changes, from at least 24 hours to at least 48 hours, the time a public body must give advance notice of specified information regarding a meeting. The General Assembly and any of its committees must continue to provide at least 24 hours notice;

(3) Requires public disclosure in an open meeting for specified legal matters upon final disposition. The disclosure must be done orally or in writing, or both, and must occur at the next scheduled open meeting of the body or at the resumption of a recessed or subsequent open meeting. When a body closes a meeting or record due to a "cause of action", the body must have received evidence that a lawsuit has been filed or must have correspondence indicating that litigation will be filed;

(4) Extends the expiration date from December 31, 2012, to December 31, 2016, for the provision that allows a public governmental body to close the meetings, records, and votes that relate to the operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health;

(5) Extends the expiration date from December 31, 2012, to December 31, 2016, for the provision that allows a public governmental body to close the meetings, records, and votes that relate to existing or proposed security systems and structural plans of real property owned or leased by a public governmental body and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety; and

(6) Specifies that if a public body closes a meeting, only members of the body, its attorney and staff assistants, and any other person necessary to provide information in regard to the matter being discussed are permitted in the meeting.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill extends the sunset on emergency exit procedures exempted from the Open Meetings and Records Law. The bill covers operational plans and guidelines which specify where officers would be posted and stipulates what their duties are, causing a concern for law enforcement if this information becomes subject to the Open Records and Meetings Law. When this language was first adopted in 2002, it was in the wake of 9-11, and their thought was that if this information was publicly available, an attack could be even more damaging since the perpetrator would know where to attack and how law enforcement would respond. The language exempting this information from an open record request has been renewed twice since 2002. There is a sunset on this to begin with because they originally thought that this concern would dissipate over time but it has not and never will.

Testifying for the bill were Representative Jones (117); Department of Public Safety; Roger Lewis, Kansas City, Missouri Police Department; and Missouri School Boards Association.

OPPOSERS: There was no opposition voiced to the committee.