

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1787-01
Bill No.: HB 697
Subject: Public Records; Public Meetings; Telecommunications
Type: Original
Date: March 25, 2013

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(Could exceed \$300,000)	(Could exceed \$345,000)	(Could exceed \$396,750)
Total Estimated Net Effect on General Revenue Fund	(Could exceed \$300,000)	(Could exceed \$345,000)	(Could exceed \$396,750)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Other State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

- 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Administrative Hearing Commission, Office of Administration - Budget and Planning, Office of the State Courts Administrator, Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, Department of Mental Health, Department of Corrections, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Higher Education, Department of Elementary and Secondary Education, Office of Prosecution Services, Department of Revenue, Department of Public Safety (Capitol Police, Missouri Highway Patrol, 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, Missouri Lottery Commission, Missouri Department of Conservation, Missouri Ethics Commission, Missouri House of Representatives, Office of the State Auditor, Missouri Senate, Office of the State Public Defender, Office of the State Treasurer, Department of Transportation, Office of the Secretary of State, State Tax Commission** and the **Missouri Veterans Commission** assume the proposal will have no fiscal impact on their respective organizations.

The officials from the **Attorney General's Office** assume any potential cost arising from this proposal can 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 **Office of Administration** estimate a cost in excess of \$300,000 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 \$300,000 in the first year, \$345,000 in the second year, and \$396,750 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 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Cost - to various state agencies</u>			
To comply with the new definitions in §109.210	(Could exceed <u>\$300,000</u>)	(Could exceed <u>\$345,000</u>)	(Could exceed <u>\$396,750</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Could exceed <u>\$300,000</u>)	(Could exceed <u>\$345,000</u>)	(Could exceed <u>\$396,750</u>)
OTHER STATE FUNDS			
<u>Cost - to various state agencies</u>			
To comply with the new definitions in §109.210	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT TO OTHER STATE FUNDS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<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. 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

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FISCAL DESCRIPTION (continued)

(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

(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
Office of the State Courts Administrator
Department of Economic Development
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections

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SOURCES OF INFORMATION (continued)

Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Higher Education
Department of Revenue
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
Joint Committee on Public Retirement
Missouri Lottery Commission
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the State Auditor
Missouri Senate
Office of the State Public Defender
Office of the State Treasurer
State Tax Commission
Missouri Veterans Commission
Department of Elementary and Secondary Education
Office of Prosecution Services
Office of the Secretary of State
Department of Transportation



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