

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4303-03
Bill No.: HCS for SB 953
Subject: Political Subdivisions; Sunshine Law; Public Records, Public Meetings
Type: Original
Date: May 6, 2008

Bill Summary: The proposal extends the expiration date for public governmental bodies to close certain security-related records and defines “causes of action.”.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
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 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General, Department of Agriculture, Coordinating Board for Higher Education, Office of Administration – Division of Budget and Planning, – Administrative Hearing Commission, Governor’s Office, Department of Economic Development, Department of Elementary and Secondary Education, Department of Mental Health, Department of Natural Resources, Department of Health and Senior Services, Department of Labor and Industrial Relations, Department of Revenue, Department of Social Services, Department of Public Safety – Director’s Office, – Division of Fire Safety, – Missouri State Water Patrol, – Missouri State Highway Patrol, Missouri Consolidated Health Care Plan, Missouri Ethics Commission, Department of Conservation, Missouri House of Representatives, State Auditor’s Office, City of Columbia, Clinton County, City of Centralia, City of West Plains, Kansas City Metropolitan Community College, Linn State Technical College, University of Central Missouri, Boone County Sheriff’s Department,** and the **Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Transportation (MoDOT)** assume the exception in § 610.021(1) allows closing records relating to an action or cause of action involving the public body. “Cause of action” has long been defined in case law to mean a claim but did not require that a lawsuit already be filed, i.e., cause of action meant potential litigation.

In *Tuft v. City of St. Louis*, 936 S.W.2d 113 (Mo. App. E.D. 1997), the Court found that in the context of the SSL, cause of action included potential litigation if there was a substantial likelihood that litigation may occur and there was a clear nexus between the document sought and the anticipated litigation. The Court noted that if cause of action was not read this way, it would have a chilling affect on the ability of public bodies to settle cases before expensive litigation and expenses are incurred.

This section overrules *Tuft* and provides a cause of action only when a lawsuit has been filed or a party has made a demand saying litigation will be filed unless the demands are met. This significantly broadens what records would be open and unless a formal demand has been made with litigation threatened or a lawsuit already filed, records will be open although the department knows a suit is soon to be filed.

ASSUMPTION (continued)

MoDOT assumes any fiscal impact would be minimal.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors or the Office of Prosecution Services.

Officials from the Greene County Sheriff's Department, Jackson County Sheriff's Department, St. Louis County Police Department, Columbia Police Department, Kansas City Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<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

The proposed legislation appears to have no fiscal impact.

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

Office of the Attorney General
Department of Agriculture
Coordinating Board for Higher Education
Office of Administration

- Division of Budget and Planning
- Administrative Hearing Commission

Governor's Office
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Transportation
Department of Mental Health
Department of Natural Resources
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety

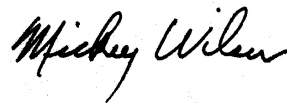
- Director's Office
- Division of Fire Safety
- Missouri State Water Patrol
- Missouri State Highway Patrol

Missouri Consolidated Health Care Plan
Missouri Ethics Commission
Department of Conservation
Missouri House of Representatives
Office of Prosecution Services
State Auditor's Office
City of Columbia
Clinton County
City of Centralia
City of West Plains
Kansas City Metropolitan Community College
Linn State Technical College
University of Central Missouri
Boone County Sheriff's Department
Springfield Police Department

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NOT RESPONDING

**Greene County Sheriff's Department
Jackson County Sheriff's Department
St. Louis County Police Department
Columbia Police Department
Kansas City Police Department
St. Louis Metropolitan Police Department**



Mickey Wilson, CPA
Director
May 6, 2008