

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3809-10
BILL NO.: HS for HCS for SB 858 with HA's 1 and 2, HSA 1 for HA 3, HA 4, HA 5, HSA 1 for HA 6, HA 9, HSA 1 for HA 10, HA's 11, 12, 13, 14 and 15
SUBJECT: Sunshine Law: Meetings and Records
TYPE: Original
DATE: May 10, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$84,000 to \$87,374)	(\$101,052 to \$104,426)	(\$101,305 to \$104,170)
Total Estimated Net Effect on All State Funds	(\$84,000 to \$87,374)	(\$101,052 to \$104,426)	(\$101,305 to \$104,170)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	(\$14,880)	(\$14,917)	(\$14,991)

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

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FISCAL ANALYSIS

ASSUMPTION

Officials of the following agencies/offices/commissions stated their offices would not be directly impacted fiscally by this, or similar, proposal: **Agriculture, Conservation, Elementary and Secondary Education, Higher Education, Transportation, Natural Resources, Revenue, Governor, Lt. Governor, Social Services, Attorney General, Courts Administrator, Tax Commission, Economic Development, Gaming, Lottery, Chief Clerk of the House, Secretary of the Senate, Secretary of State, Auditor, Treasurer, Public Defender, Prosecution Services, Harris-Stowe State College, and Missouri Western State College.**

Officials of the **University of Missouri, the Department of Public Safety, the Department of Labor and Industrial Relations, the Office of Administration and the Department of Mental Health** noted that the proposal might provide a cause of action for additional litigation, which could have a fiscal impact depending on the amount and outcome of that litigation. For fiscal note purposes it is assumed that this would not be a direct impact of the proposal.

Official of the **Department of Corrections (DOC)** expressed some concern that increased fines and possibility of DOC being liable for costs of some litigants, in the original proposal, could cause additional duties for the Department. They also indicated that the Department would be requesting additional resources, if needed, through normal budgetary request procedures.

Oversight assumes, for purposes of this fiscal note, that the proposal does not mandate increased litigation and that costs due to any permanent increase in the amount of litigation (and costs, if any, due to larger fines for violations of Chapter 610) would be matters for decision items in agency budgets.

Section 193.254 - Copies of vital records which are over 72 years old to the State Archives

Office of **Secretary of State (SOS)** officials, in a response to a similar proposal, stated that four upright microfilm cabinets can hold 1,000 reels of 16 mm. Film (type currently used for filming by DOH) each at a cost of \$1,198 each. SOS states the number of certificates determined through Record Center transmittal sheets as is number of microfilm reels (1,000 certificates would equal one reel of film per current information). SOS states DOH seems to issue between ten percent and fifty percent fewer copies of vital records per year than are filed. SOS states that each request costs \$10. Between 1910 and 1920, 470,000 death certificates and 767,000 birth certificates were filed with the state. SOS states that taking a conservative thirty percent of the average number of 112,454, the number is 33,736. In the ten years between 1921 and 1930
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about 396,000 death certificates and 559,000 birth certificates were filed. Again using thirty percent of the average number of 95,500, the number of copies issued is 28,650. SOS assumes costs of \$3,374 in FY2001, \$3,374 in FY2002, and \$2,865 in FY2003.

Officials from the **Department of Health (DOH)**, in a response to a similar proposal, stated there would be a loss of revenue for vital statistic certificate fees at \$10.00 per copy. DOH determined that approximately 40 requests per day x 21 days in month x 12 months x \$10 per request would be \$100,800 annually. DOH states that revenue would be lost because the public would not have to purchase copies if allowed to view the microfilm or electronic records and obtain information. DOH estimates that local public health agencies would lose \$14,880 in revenues because DOH and the local agencies have an agreement that DOH would promote and encourage the public to make certificate requests locally.

The similar proposal did not offer the "electronic" option for DOH to provide records to SOS; therefore, the fiscal impact to SOS will be shown as a range.

Section 610.010 - University of Missouri

Officials from the **University of Missouri**, in a response to an identical proposal from the 1999 legislative session, suggested that if the proposal would apply to all meetings or appointments held by each employee of the University then the System would need additional personnel to track, schedule and provide timely public notification of all meetings and appointments. They also note that, under these circumstances, some noncompliance or perceived noncompliance would be inevitable and would result in litigation. They can not put a precise dollar value on the effects of this proposal, but assume it would be significant.

Oversight noted that the proposal would cover "any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body..." and "...any policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer...". Those bodies should be able to post timely notification of meetings with existing resources. There does not seem to be any requirement that every meeting between individual employees of the University be posted twenty-four hours in advance. Oversight assumed that if there were a need for additional representation, it can be handled through normal budgetary processes.

Section 610.015 - Roll Call Votes

ASSUMPTION (continued)

In responses to a similar proposal, officials of all state agencies contacted and of several state-supported institutions of higher education stated the proposal would have no fiscal impact.

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Section 217.412 - Autopsy reports provided to members of the General Assembly

Officials of the **Department of Corrections** stated that they could fulfill the requirements of this part of the proposal with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>GENERAL REVENUE FUND</u>			
<u>Loss - Department of Health</u>			
Certificate fees	(\$84,000)	(\$101,052)	(\$101,305)
<u>Costs - Office of Secretary of State</u>			
Film costs	<u>(\$0 to \$3,374)</u>	<u>(\$0 to \$3,374)</u>	<u>(\$0 to \$2,865)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$84,000 to \$87,374)</u>	<u>(\$101,052 to \$104,426)</u>	<u>(\$101,305 to \$104,170)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
POLITICAL SUBDIVISIONS			
<u>Loss - Local Public Health Agencies</u>			
Certificate fees	<u>(\$14,880)</u>	<u>(\$14,917)</u>	<u>(\$14,991)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(\$14,880)</u>	<u>(\$14,917)</u>	<u>(\$14,991)</u>

FISCAL IMPACT - Small Business

Small businesses which requested copies of public documents would be affected by this proposal.

DESCRIPTION

This proposal would require that roll call votes be taken and made public on matters where meetings themselves could be closed under the open meetings law. It would also: allow penalties to be assessed for "knowingly" violating of the open meetings law (currently, penalties are only allowed if the violation is "purposeful"); increase possible penalties for violations of the law from \$500 to \$5,000; and, limit the circumstances under which courts could order public bodies

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or members of public bodies to pay costs and attorney fees of parties successfully establishing violations of the Open Meetings Law to those occasions when the court found the violation to be "a knowing violation".

The proposal would make exemptions to the Open Meetings Law for certain records of public hospitals and related organizations of public hospitals, though some records would have to be made public within certain time frames; proprietary information submitted as part of sealed bids or proposals; records of municipally-owned gas and electric utilities which are related to future marketing and service expansion areas; and personally identifiable information concerning participants and beneficiaries of accounts established in the Missouri higher education savings program.

The proposal would also:

- 1) amend the current exemption for confidential or privileged communications between public bodies and their auditors to say that completed audits for public bodies and state-supported institutions of higher education would not be included in the exemption;
- 2) exempt any public hospital which does not receive money from property tax levies from the open meetings law if the hospital waived its right to sovereign immunity or governmental tort immunity protection under state law;
- 3) require the Secretary of State to provide copies of laws relating to open meetings along with the financial disclosure forms the Secretary provides to candidates and elected officials;
- 4) limit fees governmental bodies may charge for copies of public records to the lesser of the cost of document search and duplication or \$.25 per copy, unless representatives of the body certify in writing why the search of documents required extraordinary effort. In that case the charge would be the actual cost of search and duplication;
- 5) require the Department of Corrections to provide copies of autopsies of prisoners who died under violent or suspicious circumstances to any member of the General Assembly upon request;

DESCRIPTION (CONTINUED)

- 6) make it explicit that the University of Missouri is included in certain provisions of the state's "Open Meetings Law";
- 7) require that all votes of public bodies except votes on procedural or ministerial matters (and votes excepted under law or constitution) be roll call votes; and

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8) require the Department of Health to provide microfilm or electronically created records to the Missouri State Archives of all vital records that are 72 years old or older and microfilm or electronically created copies of the indexes to the records.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This proposal would not affect Total State Revenue.

SOURCES OF INFORMATION

Office of Administration
Department of Agriculture
Department of Conservation
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health
Department of Higher Education
Department of Transportation
Department of Insurance
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Public Safety
Department of Revenue
Department of Social Services
State Courts Administrator
State Tax Commission
Office of Prosecution Services
State Public Defender
Chief Clerk - House of Representatives
State Auditor

SOURCES OF INFORMATION (Continued)

Governor
Lieutenant Governor
Secretary of State
State Treasurer
Harris-Stowe State College
Missouri Western State College
University of Missouri

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Director

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