

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2655-03
Bill No.: SB 685
Subject: Public Meetings and Records: Sunshine Law
Type: #Corrected
Date: February 14, 2002
#Math error

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
#General Revenue	(\$56,790 to Unknown)	(\$59,288 to Unknown)	(\$60,815 to Unknown)
Highway Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Department of Revenue Information Fund	\$0 to (\$210,151)	\$0 to (\$252,181)	\$0 to (\$252,181)
#Total Estimated Net Effect on <u>All</u> State Funds	(\$56,790 to Unknown)	(\$59,288 to Unknown)	(\$60,815 to Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the following agencies/offices/commissions stated their offices would not expect significant fiscal impact due to this proposal: **Agriculture, Conservation, Elementary and Secondary Education, Health and Senior Services, Higher Education, Insurance, Transportation, Natural Resources, Public Safety (Highway Patrol, Capitol Police, SEMA, Fire Safety and Highway Safety), Office of Administration - Deputy Commissioner, Labor and Industrial Relations, Economic Development, Governor, Lieutenant Governor, Social Services, Attorney General, Courts Administrator, Tax Commission, Economic Development, Gaming Commission, Lottery, Chief Clerk of the House, Secretary of the Senate, Secretary of State, Auditor, Treasurer, Central Missouri State University, Southwest Missouri State University (about \$570 per year loss), Truman State University, Harris-Stowe State College, and the University of Missouri.**

Officials of the **Department of Public Safety - Director's Office**, the **Department of Corrections** (in response to similar proposals from previous years), and **Department of Transportation (MoDOT)** 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. MoDOT officials were particularly concerned about the lack of definition of the word "imminent" in proposed section 610.021. For fiscal note purposes it is assumed that this would not be a direct impact of the proposal.

Officials of the **Department of Revenue (DOR)** stated that Division of Motor Vehicles and Drivers Licensing personnel calculate fees for copies of records on a per record basis. This proposal would require programming changes to the Missouri Driver License System, the Field Automated System for Titling and Registration, the billing system and the accounting system. In addition staff would have to manually count pages of each search for billing purposes. Division officials state that the cost for programming changes and additional staff time is unknown but would be significant.

DOR officials note that, in FY 2001, the Department processed 307,780 requests for copies of non-electronic records and 899,514 electronic transactions. They reported revenues of \$538,615 from non-electronic transactions. They would have collected \$61,556 under terms of this proposal, assuming an average of two pages per transaction. DOR officials reported income of \$1,124,393 from electronic transactions at a charge of \$1.25 per page. They anticipate increasing the cost of these records to \$1.50 (section 28.160 allows a charge of up to \$2.00, but they think it would be difficult to justify a 60% increase in transaction fees). Income would have been \$1,349,271 under terms of the proposal. The net effect would be a loss of \$252,181 to the

Department of Revenue Information Fund. That Fund is a revolving fund and excess fund balances are transferred to the State Highways and Transportation Fund.

ASSUMPTION (continued)

Officials of the **Department of Mental Health** and the **Department of Economic Development's Division of Motor Carrier and Railroad Safety** also computed projected losses of approximately \$28,000 and \$500 per year, respectively.

Officials of the **Office of the Attorney General** would request an Assistant Attorney General II because subsection 610.027.6 makes the Attorney General's role in settling Sunshine Law disputes a formal one.

Oversight assumes, for purposes of this fiscal note: 1) 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 and imposition of court costs and attorney fees for violations of Chapter 610) would be matters for decision items in agency budgets; 2) that the Assistant Attorney General would be located in existing space; 3) that public bodies (including political subdivisions) would be subject to larger fines but could avoid them, and 4) that coroners and medical examiners would be able to recover costs of making information regarding investigations available for public viewing.

<u>FISCAL IMPACT - State Government</u>	FY 2002	FY 2003	FY 2004
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Cost</u> - Attorney General (AGO)			
Personal Service (1 FTE)	(\$30,625)	(\$37,669)	(\$38,610)
Fringe Benefits	(\$10,207)	(\$12,555)	(\$12,869)
Expense and Equipment	<u>(\$15,958)</u>	<u>(\$9,064)</u>	<u>(\$9,336)</u>
Administrative Cost to AGO	(\$56,790)	(\$59,288)	(\$60,815)
<u>Loss</u> - Various Agencies: Record Reproduction Fees	(Unknown)	(Unknown)	(Unknown)
#ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$56,790)</u> to (Unknown)	<u>(\$59,288)</u> to (Unknown)	<u>(\$60,815)</u> to (Unknown)

**DEPARTMENT OF REVENUE
 INFORMATION FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<u>Saving</u> - Reduced Transfers to Highway Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Loss</u> - Record Reproduction Fees	(\$210,151)	(\$252,181)	(\$252,181)
ESTIMATED NET EFFECT ON DEPARTMENT OF REVENUE INFORMATION FUND	<u>\$0 to (\$210,151)</u>	<u>\$0 to (\$252,181)</u>	<u>\$0 to (\$252,181)</u>

HIGHWAY FUND

<u>Loss</u> - Reduced Transfers from Department of Revenue Information Fund	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$0 to Unknown)</u>	<u>(\$0 to Unknown)</u>	<u>(\$0 to Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
POLITICAL SUBDIVISIONS			
<u>Loss</u> - Record Reproduction Fees	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

CORONERS AND MEDICAL EXAMINERS

<u>Income</u> - Charges for making information available to public	Unknown	Unknown	Unknown
<u>Cost</u> - to make information available to public	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CORONERS AND MEDICAL EXAMINERS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses could be affected by changes in charges for getting access to public records.

DESCRIPTION

This proposal would require that roll call votes be taken on any votes during open or closed meetings of public bodies (except votes on procedural or ministerial matters) and, in the case of closed meetings, require that those vote be made public. It would also allow penalties of \$0 to \$2,500 to be assessed for violations of the open meeting law and require judges to order payment of court costs and attorneys fees by offending officers or agencies if a violation is found to be "knowing". (Currently, penalties are only allowed if the violation is "purposeful" and only up to \$500). Penalties would not be more than five percent (5%) of the total annual budget of a public body.

Currently, any person may request a law enforcement agency to open incident reports and arrest records that are unlawfully closed. If the court found there was any violation, the same penalties listed above would apply.

In a criminal proceeding where no conviction resulted, the court's judgment or order or the final action taken by the prosecuting attorney could be accessed.

The proposal would delete the provision prohibiting law enforcement from releasing accident or incident report to any person who is not an interested party for 60 days.

Members of public governmental bodies who believed that a meeting or vote was wrongfully closed would enter their objections into the minutes of the bodies. The objection would be an absolute defense to any claim under the proposed section 610.027, which sets out penalties for violating the Open Meeting Law.

The proposal would change to an exemption to the Open Meetings Law to allow closure of imminent causes of action or litigation involving public governmental bodies (current law does not include the word "imminent") and make public completed audit reports of public governmental bodies or educational institutions supported in whole or in part by public funds. Audit reports would include audited financial statements, written management letters issued by auditors in conjunction with audits, and written communications by auditors made under the statement on auditing standards.

This proposal would specifically include the "Curators of the University of Missouri in the

definition of education-related agencies supported in whole or in part with state funds and specifically include the Bi-State Development Agency as a quasi-public governmental agency.

It would limit fees under section 610.026 for copying public records to the amounts specified in section 28.160, RSMo. That section sets out fees for services to be rendered by the Secretary of State. (Allowable fees for copying papers, records or documents which are 8 and ½ x 14 inches and smaller are up to \$.10 per page.)

DESCRIPTION (continued)

It would require coroners and medical examiners to make an incident report containing certain information from death investigations available for public examination and copying within 72 hours of occurrence or discovery of a death as well as certain information from autopsy reports within 72 hours of completion of an autopsy.

The proposal would also require public governmental bodies and their members to cooperate with the Attorney General when the Attorney General is determining whether the bodies or their members have complies with the Open Meetings law. The Attorney General would have access to copies of open and closed records, except for privileged communications. Records identified as closed by public governmental bodies would remain closed, except that the Attorney General could use them in any action brought to enforce the Open Meetings law by presenting them in court proceedings if the Attorney General determines that the records should not have been closed or that the records reflect actions which should not have been taken in closed session.

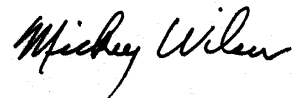
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. The proposal would affect Total State Revenue.

SOURCES OF INFORMATION

Office of Administration
Department of Agriculture
Department of Conservation
Department of Elementary and Secondary 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 Social Services
Department of Health and Senior Services
State Courts Administrator
State Tax Commission
Chief Clerk - House of Representatives
State Auditor
Lieutenant Governor
State Treasurer
Harris-Stowe State College
SOURCES OF INFORMATION (continued)

Southwest Missouri State University
University of Missouri



Mickey Wilson, CPA
Acting Director
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