

HCS HB 316 -- OPEN MEETINGS AND RECORDS LAW

SPONSOR: Jones (89)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 14 to 0.

This substitute changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law. In its main provisions, the substitute:

- (1) Requires all records of the Missouri Ethics Commission to be open records except for any investigative reports prepared by commission employees regarding complaints until a decision is rendered and any reports of complaints that the commission dismisses. The respondent to a commission investigation may request that his or her records be sealed for good cause shown;
- (2) Requires all meetings of the commission to be open except those in which the commission discusses a pending complaint;
- (3) Specifies that a "quasi-public governmental body" will include any association that receives public funding through dues paid by a public governmental body or its members;
- (4) Requires the minutes to reflect a general account of the discussions that occurred at a closed meeting;
- (5) Specifies that only members of a public governmental body, their attorneys and staff assistants, and any necessary witnesses will be permitted in any closed meeting of the governmental body;
- (6) Specifies the criteria for the litigation exception to the open record disclosure. An actual lawsuit, a threat of a lawsuit, or a substantial likelihood of litigation must exist in order to close information regarding a cause of action;
- (7) Requires information to be made available in an electronic format if a public body keeps records in an electronic format. Data must be available in a format accessible to the public if it is stored in a data-processing program. Hospitals will not be compelled to violate their licensing agreements involving proprietary data-processing systems;
- (8) Reduces from \$1,000 to \$100 the maximum civil penalty for any violation of Sections 610.010 - 610.026, RSMo, and increases the maximum penalty for a purposeful violation of these sections from \$5,000 to \$8,000;
- (9) Allows courts to use the penalty of voiding a public body's

actions when evaluating actions in violation of Sections 610.010 - 610.026 that occur at any meeting not only at closed meetings; and

(10) Requires any public meeting of a public governmental body addressing issues regarding a fee or tax increase, eminent domain, zoning, transportation development districts, or tax increment financing to give at least five days' notice prior to the meeting, exclusive of weekends and holidays when the facility is closed. The meetings must allow time for public comment. If proper notice is not given, discussion on the issue will be postponed and no vote will be taken for at least 30 days.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown in FY 2010, FY 2011, and FY 2012. Estimated Cost on Other State Funds of \$92,250 in FY 2010, \$0 in FY 2011, and \$0 in FY 2012.

PROPOSERS: Supporters say that the bill makes necessary clarifications to the Sunshine Law. It will make the Missouri Ethics Commission comply with many disclosure requests; limit the use of the litigation exception; prevent abuse of the open meetings requirements to raise taxes and impose other fees; and make documents available in an electronic format if they are kept electronically.

Testifying for the bill were Representative Jones (89); Missouri Broadcasters Association; David Cook, United Food and Commercial Workers 655 and Teamsters 688; Missouri Press Association; Missouri Retailers Association; Robert Fleming; Jake Purcell, City of Cape Girardeau; Thomas Cramer, City of Brentwood; Donna Holly; Dr. Thomas Sagor; John Maupin; and Michael Kelley, Mid-America Retail.

OPPOSERS: Those who oppose the bill say that most political subdivisions do not have the resources necessary to comply with the record-keeping requirements. Strict liability penalties for violating the Sunshine Law is not good policy. Electronic record-keeping requirements for subdivisions that store records electronically could be an unfunded mandate.

Testifying against the bill were Missouri Municipal League; Missouri Association of Counties; St. Louis County Municipal League; and Cooperating School Districts of Greater Kansas City.

OTHERS: Others testifying on the bill answered technical questions.

Testifying on the bill was Jean Meneke.