

CCS HS HCS SCS SB 1020, 889 & 869 -- OPEN RECORDS LAW

This bill makes changes to the Open Records Law. In its main provisions, the bill:

(1) Grants an exception, until June 30, 2006, to the requirement that a newspaper must have been published regularly for three years to carry legal notices when a county is served by only one newspaper that meets all of the other requirements. This portion of the bill contains an emergency clause;

(2) Includes the University of Missouri board of curators and the Bi-State Development Agency in the definition of "public governmental body." The bill clarifies that public meetings include meetings held through conference calls, video conferences, and similar methods and that public votes include votes made by telephone and other electronic means. The definition of "public record" is changed to include records created or maintained by private contractors under agreements with public governmental bodies and documents prepared by consultants;

(3) Restricts roll call votes in elected public bodies to those who are physically present, except for committees and the General Assembly. In an emergency of the public body, as long as a quorum is physically present and the reason for the emergency is recorded in the minutes, absent members may vote by telephone, Internet, or other means;

(4) Requires that the notice of a meeting held by telephone or other electronic means identify the mode by which the meeting is held and provide information on public access. The bill also requires public bodies to permit taping and other electronic recording of their open meetings and permits these bodies to establish guidelines for the recording. Unauthorized audio taping of closed sessions is a class C misdemeanor;

(5) Requires that a journal or the minutes of closed meetings be taken and retained by public governmental bodies;

(6) Allows disclosure of the amount and source of private donations toward the salary of a chancellor or president of public higher education institutions;

(7) Requires that all final audit reports by the auditor of a public governmental body be considered open public records;

(8) Authorizes public governmental bodies to close meetings, records, and votes relating to operational guidelines and policies adopted and maintained by public agencies responsible

for health and safety for responding to or preventing terrorist incidents, when the agencies state in writing that disclosure would impair their protection duties and public interest in nondisclosure outweighs public interest in disclosure.

Information regarding expenditures and contracts made by agencies in implementing these policies is not exempt. Voluntarily submitted information from nonpublic entities concerning infrastructure may be excluded and must be reviewed and returned or destroyed within 90 days if the information is not kept. Both of these exceptions sunset on December 31, 2008;

(9) Allows a member of a public governmental body to record an objection to closing a record, meeting, or vote. The objecting member may stay for the meeting or vote, and the recorded objection will be an absolute defense to any claim providing for actions against public governmental bodies and the imposition of monetary penalties;

(10) Requires members of public governmental bodies who electronically transmit messages relating to public business to two or more members to concurrently transmit the message to the member's office computer or the custodian of records, when, counting the sender, the message is sent to a majority of the body's members;

(11) Changes the fee for furnishing copies of most public records from the actual cost of the document search and duplication to 10 cents per page for paper copies up to legal size, with the hourly fee for duplicating not to exceed the average hourly rate of pay for clerical staff. Based on the request, the research and duplication must be done using employees that produce the lowest charge, and an estimate of charges must be furnished if requested. Charges for nonstandard size paper, electronic media, blueprints and similar materials, or for special requests are set at the actual cost;

(12) Prohibits the custodian of public records from transferring custody, altering, or otherwise disposing of records that are the subject of a civil action;

(13) Changes the civil fine of up to \$500 and payment of the successful party's costs and reasonable attorney fees for a purposeful violation to a civil penalty of up to \$1,000 upon a finding of a knowing violation of the law by a public governmental body, its members, or a law enforcement agency and permits the award of court costs;

(14) Requires a court, upon a finding of a purposeful violation of the law, to impose a civil penalty of up to \$5,000 and court costs;

(15) Requires, in determining the amount of the penalty for a violation, the court to consider the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or its members have previously violated the laws;

(16) Requires a public governmental body when developing an electronic record-keeping system to do so in a format that is not an impediment to public access and to provide information in the format requested when it is possible to do so. The format must permit viewing and printing;

(17) Removes the provision prohibiting law enforcement agencies from releasing accident or incident reports for 60 days to any person who is not an interested party; and

(18) Requires school districts that have Internet web sites to post their current policy manual and handbook.