

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0419-07
Bill No.: SCS for HCS for HB 316
Subject: Sunshine Law, Meetings, and Records; Public Records, Public Meetings
Type: Original
Date: May 13, 2009

Bill Summary: The proposal revises the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Highway	(\$92,250)	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	(\$92,250)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
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 2010	FY 2011	FY 2012
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Coordinating Board for Higher Education, Office of Administration – Administrative Hearing Commission, Department of Economic Development, Public Service Commission, Department of Transportation, Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, Department of Natural Resources, Department of Revenue, Department of Social Services, Department of Public Safety – Missouri State Water Patrol, – Missouri Veterans Commission, – Missouri Gaming Commission, – Capitol Police, Missouri Consolidated Health Care Plan, Department of Conservation, Missouri Ethics Commission, Missouri Senate, Metropolitan Community College of Kansas City, Missouri State University, University of Missouri, University of Central Missouri, and the Special School District of St. Louis County** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfected HCS for HB 316, LR # 0419-04), officials from the **Department of Labor and Industrial Relations, Department of Public Safety – State Emergency Management Agency, – Division of Fire Safety, and the – Division of Alcohol and Tobacco Control,** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 316, LR # 0419-04), officials from the **Office of Administration – Division of Budget and Planning, Office of the Governor, Missouri House of Representatives, Office of the Lieutenant Governor, Office of the State Auditor, Office of the State Public Defender, State Treasurer’s Office, Linn State Technical College, Missouri Western State University, City of Centralia, City of Clayton, and St. Louis County** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HB 316, LR # 0419-01), officials from the **Department of Agriculture, Office of Administration – Division of Purchasing and Materials Management, City of West Plains, Cass County, Lincoln University, Francis Howell School District, Sikeston R-6 School District, and the City of Cape Girardeau** assumed the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfected HCS for HB 316, LR # 0419-04), officials from the **Office of the Attorney General (AGO)** assumed any potential costs arising from this proposal can be absorbed within existing resources. If the number of training sessions increases significantly, AGO may seek additional appropriations to cover the increase.

ASSUMPTION (continued)

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 Public Safety – Director’s Office** assume any costs associated with this proposal can be absorbed within existing resources.

Officials from the **Department of Elementary and Secondary Education (DESE)** submitted a fiscal estimate provided by Office of Administration – Information Technology Services Division (OA–ITSD) in reference to Sections 610.023 and 610.029:

To provide data access to the general public, the estimated one time cost is approximately \$562,500. Ongoing costs are estimated at \$93,500 which includes an additional 1-FTE at an annual salary of \$45,000 to maintain the system as well as to provide enhancements as new data collections systems are put online or existing systems are changed.

There are currently over 20 data collection processes that are automated at DESE. Most of these data are available for the general public to view currently through the Public Applications area of the web application system or through various spreadsheets and reports available on the DESE public web site. These collections cover several different business areas and result in the primary outputs of payments and reports. The processes to provide these to the general public in a different yet easy to use format would require new hardware and software.

Officials from the **Department of Corrections (DOC)** assumed the proposal will have no fiscal impact unless software, etc. is necessary due to the following language in Section 610.023.3: “Data-processing programs used by public governmental bodies shall allow for copying of data in a format that is easily accessed and manipulated by programs commonly available to the public.” DOC assumes Office of Administration – Information Technology Systems Division will address this on behalf of state agencies as to whether or not there will be a potential for fiscal impact.

Officials from the **Department of Health and Senior Services (DHSS)** assumed they may incur a fiscal impact due to the provisions in Sections 610.023 and 610.029. There may be public records stored in various programs that are not easily accessed and manipulated by programs commonly available to the public, which may not be easily transferable to a different format. If there were requests made for this information, Office of Administration – Information Technology Systems Division would have to make modifications to the programs in order to make it easily accessible. It is unknown at this time how many requests would be made for the information. DHSS estimates the fiscal impact to be unknown.

ASSUMPTION (continued)

The provisions in Section 610.029.2 would have a fiscal impact on DHSS. Their current firewalls and security are not sufficient and do not have the required capability. The cost is unknown, but is expected to exceed \$100,000.

DHSS also assumes the proposed changes in Section 610.027.4 could result in increased penalty payments if the department were found in violation. DHSS is unable to determine how often this would occur. DHSS assumes an unknown impact.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assumed Section 610.029 of this legislation would require data conversion for the MSHP, and would primarily affect two areas:

The MSHP's Information Systems Division indicates that data conversion would be necessary for the form that reports its arrests, incidents, and investigations of crime on the AS400. They estimate this would involve 1,025 hours of consultant fees, at \$82 per hour (1,025 hours x \$82 = \$84,050).

The MSHP's Traffic Division indicates the Traffic Arrest System/DWI Tracking System would have to be reprogrammed to allow a "public" user id and password. Consultants would have to program the system to allow only open arrest records to be accessible to the public when querying the systems. Arrests that are open pursuant to state statutes are accessible to the public, and these records would now have to be made available in an electronic format. They estimate this would involve 100 hours of consultant fees, at \$82 per hour (100 hours x \$82 = \$8,200).

As a result, the total cost to the MSHP would be \$92,250 (\$84,050 + \$8,200) in FY 2010.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

ASSUMPTION (continued)

Officials from **Missouri Southern State University** assume the proposal would result in a minimal fiscal impact.

In response to a previous version of the proposal (HB 316, LR # 0419-01), officials from the **Truman State University** assumed the proposal has the potential of adding costs to produce electronic formats. Officials state the impact is not possible to calculate.

In response to a previous version of the proposal (HCS for HB 316, LR # 0419-04), officials from the **City of Kansas City** assumed the legislation will have a negative fiscal impact on the City because they will have to maintain all its records in an electronic database that is easily accessible.

In response to a previous version of the proposal (HCS for HB 316, LR # 0419-04), officials from **Clinton County** assumed they could incur a fiscal impact as a result of the proposal.

Oversight assumes state agencies and political subdivisions could experience a fiscal impact due to the provisions in section 610.023.3, which state, "Data-processing programs used by public governmental bodies shall allow for copying of data in a format that is easily accessed and manipulated by programs commonly available to the public." For fiscal note purposes, Oversight has reflected this fiscal impact as unknown to the general revenue fund and to political subdivisions.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE FUND			
<u>Costs</u> – Various state agencies Information technology costs (610.023.3)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
HIGHWAY FUND			
<u>Costs</u> – Missouri State Highway Patrol Programming consultant fees (610.029.1)	<u>(\$92,250)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$92,250)</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
POLITICAL SUBDIVISIONS			
<u>Costs</u> – Various Political Subdivisions Information technology costs (610.023.3)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposal changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law. The provisions with the potential of a fiscal impact to state agencies and political subdivision include:

Section 610.023 – Existing law requires governmental bodies to provide records in the format requested if a certain format is requested and the record is available in that format. The proposal further requires that programs used to manipulate data collected by public governmental bodies be such that all of the data contained in the program may be easily accessed and manipulated by programs commonly available to the public.

Section 610.027 – The proposal sets at \$1,000 the civil penalty for any knowing violation of Sections 610.010 - 610.026, RSMo, and increases the maximum penalty for a violation of these sections from \$5,000 to \$8,000;

Section 610.029 – The provisions in the legislation require a public governmental body that maintains its records in an electronic format to make information available in a format easily accessed and managed by programs commonly available to the public. The proposal requires public governmental bodies to include in a contract for electronic services provisions that limit the liability of the governmental body providing the services through the use of data loss prevention technology that can identify, monitor, and protect the data at rest, data in use, or data in motion through deep content inspection and with a centralized management framework.

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

- Administrative Hearing Commission
- Division of Budget and Planning
- Division of Purchasing and Materials Management

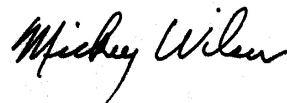
Office of State Courts Administrator
Department of Economic Development
Department of Elementary and Secondary Education
Department of Transportation
Department of Insurance, Financial Institutions, and Professional Registration
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Revenue
Department of Social Services
Department of Public Safety

- Missouri State Highway Patrol
- Missouri Veterans Commission
- State Emergency Management Agency
- Division of Alcohol and Tobacco Control
- Capitol Police
- Missouri Gaming Commission
- Division of Fire Safety
- Director's Office
- Missouri State Water Patrol

Office of the Governor
Missouri Consolidated Health Care Plan
Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the Lieutenant Governor
Office of Prosecution Services
Public Service Commission
Missouri Senate

SOURCES OF INFORMATION (continued)

Office of the Secretary of State
Office of the State Public Defender
State Treasurer's Office
Lincoln University
Linn State Technical College
Metropolitan Community College of Kansas City
Missouri Southern State University
Missouri State University
Missouri Western State University
University of Central Missouri
University of Missouri
Francis Howell School District
Sikeston R-6 School District
Special School District of St. Louis County
City of Centralia
City of Clayton
City of Kansas City
City of West Plains
City of Cape Girardeau
Cass County
Clinton County
St. Louis County



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