

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1409-01
Bill No.: SB 375
Subject: Public Meetings and Records: Sunshine Law
Type: Original
Date: February 12, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$40,525 to Unknown)	(\$49,521 to Unknown)	(\$50,820 to Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$40,525 to Unknown)	(\$49,521 to Unknown)	(\$50,820 to Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Federal	(\$43,902)	(\$53,650)	(\$55,058)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$43,902)	(\$53,650)	(\$55,058)

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

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 direct fiscal impact due to this proposal: **Agriculture, Conservation, Elementary and Secondary Education, Higher Education, Insurance, Labor and Industrial Relations, Transportation, Natural Resources, Mental Health, 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, Central Missouri State University, Southwest Missouri State University, Truman State University, Harris-Stowe State College, and Missouri Western State College.**

Officials of the **University of Missouri** and the **Department of Corrections** (in response to similar proposals from previous years) 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.

Officials of the **Department of Public Safety - Water Patrol** would request a Clerk IV to develop a separate Records Section to monitor requests for division reports and records and to assure that records are made public strictly according to Chapter 610. The public records would be moved from the communications section to a secured records room. Costs for the new employee, including fringe benefits and equipment and expense, would be approximately \$38,000 per year.

Oversight notes that the proposal does not require a separate Records Section. While limiting costs for copies of public records could logically lead to more requests for copies, the proposal does not require it. Oversight assumes agencies would request resources for researching requests for public records, retrieving those records and making copies of public records through decision budget requests as the need arises.

Officials of the **Department of Health (DOH)** note that the proposal could eliminate special copying funds such as those created in sections 192.323 and 193.265. The Department provides manpower lists, hospital and nursing home profiles, hospital revenue data among other information. The Department would not provide this information if it could not charge enough to cover costs of retrieving the information as well as for copying it. The Document Services Fund has received an average of \$75,000 per year for the last three years.

Oversight notes that 193.265 sets fees for certain documents and assumes that the changes
ASSUMPTION (continued)

proposed would not affect those fees. Oversight assumes that DOH would be able to charge enough to cover all costs of reproducing documents covered by 192.323 or that DOH would save approximately the same amount in administrative costs as it would lose in fees. In either case, the net effect to state funds would be minimum.

Officials of the **Department of Social Services (DOS) - Division of Aging (DA)** anticipate the need for three additional Clerk Typists II to handle the increased need for copies due to this proposal.

They note that the Office of Administration established a fee schedule based on the Open Meetings Law: Research Time of \$15 per hour for professional staff and \$8 per hour for clerical staff; Copying Costs of \$.50 for the first copy of an original and \$.10 for subsequent copies. The proposal represents a 90% reduction from the actual cost of researching and copying documents and is less than commercial copiers charge for making copies; therefore, there will be more requests for multiple copies from the DA. The DA's Institutional Services makes about 65,000 copies per year of documents covered by the Open Meetings Law. Last fiscal year, 18,156 copies were made at \$.50, the other 46,844 copies were made at no charge to the requesters (i.e. residents of institutions or family members). The reduction to general revenue would have been \$8,170. (Costs for reproducing color copies and photographs is not included because department personnel have these done at commercial copiers and charge requesters the cost of reproductions.)

DA officials note that most requests for records from the Institutional Services Central Office Files Unit are from attorneys requesting documents related to ongoing or potential litigation. Some of the information is readily available in paper form, but some of it is archived and some is on microfiche. (Records are kept as hard copy for two years and on microfiche for five years)

They anticipate increases in searches from one or two years worth of records to seven years and expect nine additional sets of copies per request because DA will charge \$.05 for copies as opposed to the \$.07 to \$.13 charged by commercial copiers.

6,052 x 6 =	35,312	additional copies (increase from 1 year to 7 years)
12,104 x 5 =	60,520	additional copies (increase from 2 years to 7 years)
	96,823	Subtotal
96,823 x 9	871,488	additional copies (increase of 9 sets of copies)

DA currently mails 480 packets of information per year. Officials assume this would approximately double. Additional mailing costs were estimated at \$2,285 per year.

ASSUMPTION (continued)

Expense and equipment for the new FTE would include, in addition to normal costs, \$16,046 for

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a heavy duty copier and \$20,000 for two microfiche machines.

DA officials have assumed personal service costs for three months of FY 2002. Costs would be divided 48% General Revenue Fund and 52% Federal Funds.

Officials of DOS - Division of Family Services estimated losses to the General Revenue Fund of about \$700 per year due to reduction in charges for copies.

Oversight assumes that employees would be located in existing areas and adjusted salaries to reflect that of new employees.

Officials of the several agencies noted that: 1) the proposal would limit charges for copies of documents which are public records to \$.05, which would have a negative impact on state funds, 2) the increased potential penalties for violations by agencies and members could have a negative impact on state funds, and 3) the requirement that all meetings of members of public governmental meetings be posted and conducted as "public meetings" could slow work processes and increase costs of doing business.

Oversight will: 1) show lost income from copies as "Unknown", 2) assume that increased costs for violations of the Open Meetings Law are avoidable, 3) assume that state and local agencies could adjust postings to address the fact that meetings of members of public bodies as well as formal meetings of those bodies would be subject to provisions of Chapter 610, and 4) assume that coroners and medical examiners would be able to recover costs of making information regarding investigations available for public viewing and of providing autopsies to next of kin and insurance companies.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost</u> - Department of Social Services - Division of Aging (DOS - DA)			
Personal Service (1.44 FTE)	(\$6,950)	(\$28,493)	(\$29,205)
Fringe Benefits	(\$2,137)	(\$8,762)	(\$8,981)
Expense and Equipment	<u>(\$31,438)</u>	<u>(\$12,266)</u>	<u>(\$12,634)</u>
Administrative Costs DOS - DA	(\$40,525)	(\$49,521)	(\$50,820)
<u>Loss</u> - Various State Agencies			
Reduced Income from Copies	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$40,525 to Unknown)</u>	<u>(\$49,521 to Unknown)</u>	<u>(\$50,820 to Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
FEDERAL FUNDS			
<u>Cost</u> - Department of Social Services - Division of Aging (DOS - DA)			
Personal Service (1.56 FTE)	(\$7,529)	(\$30,870)	(\$31,642)
Fringe Benefits	(\$2,316)	(\$9,493)	(\$9,730)
Expense and Equipment	<u>(\$34,057)</u>	<u>(\$13,287)</u>	<u>(\$13,686)</u>
Administrative Costs DOS - DA	(\$43,902)	(\$53,650)	(\$55,058)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>(\$43,902)</u>	<u>(\$53,650)</u>	<u>(\$55,058)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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 making copies of 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 \$500 to \$25,000 to be assessed for any violation of the open meeting law and allow 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

DESCRIPTION (continued)

up to \$500). Penalties would not be more than five percent (5%) of the total annual budget of a public body.

The proposal would make an exemption to the Open Meetings Law for the names of the final slate of candidates for positions of final authority in governmental affairs offices 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. The proposal would remove the exception for electric utilities' records and business plans (this is scheduled to expire December 31, 2001 if Missouri does not implement electric restructuring by then).

It would limit charges for producing public records to not more than five cents (\$.05) per page. It would require coroners and medical examiners to make certain information from death investigations available for public examination and copying and to provide, upon request, full copies of autopsy reports to a deceased's next of kin or to an insurance company investigating a claim related to a death.

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 Health
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
State Courts Administrator
State Tax Commission
Chief Clerk - House of Representatives

SOURCES OF INFORMATION (continued)

State Auditor
Lieutenant Governor
State Treasurer

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Harris-Stowe State College
Southwestern Missouri State University
Truman State University
Missouri Western State College
University of Missouri

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director
February 12, 2001