

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3213-01
Bill No.: SB 709
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 2003	FY 2004	FY 2005
#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 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
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, Mental Health, 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** 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 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.

Officials of the **Office of the Attorney General** would request an Assistant Attorney General II
ASSUMPTION (continued)

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; and 3) that public bodies (including political subdivisions) would be subject to larger fines but could avoid them.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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> - 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>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</u> <u>(\$210,151)</u>	<u>\$0 to</u> <u>(\$252,181)</u>	<u>\$0 to</u> <u>(\$252,181)</u>

HIGHWAY FUND

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<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 2003 (10 Mo.)	FY 2004	FY 2005
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>

FISCAL IMPACT - Small Business

Small businesses could be affected by changes in charges for 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 on unanimous votes of members present) and, in the case of closed meetings, require that those vote be made public. It would also allow civil penalties (current law allows civil fines) of up to \$2,500 to be assessed for any knowing violation of the open meeting law. Courts would determine the amounts of penalties using considerations set out in the proposal. (Currently, penalties are only allowed if the violation is "purposeful" and only up to \$500.)

The proposal would make personally identifiable information concerning participants and beneficiaries of accounts established in the Missouri higher education savings program confidential. Disclosure of this information would be limited to purposes directly connected with administration of the program and requests made in order to pursue collections under terms of 288.170, RSMo (collection of delinquent contributions by the Division of Employment Security).

The proposal would define the Bi-State Development Agency (in the St. Louis area) as a quasi-governmental body for purposes of the Open Meetings Law.

The proposal would set maximum fees for copying public records as the amounts specified in Section 28.160, RSMo. (This section sets fee schedules for the Secretary of State.) Currently, fees shall not exceed the actual cost of finding and copying documents.

DESCRIPTION (continued)

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 Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Higher 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 Revenue
Department of Social Services
State Courts Administrator
State Tax Commission
Chief Clerk - House of Representatives
Attorney General
Secretary of the Senate

State Auditor

Governor

Lieutenant Governor

Secretary of State

State Treasurer

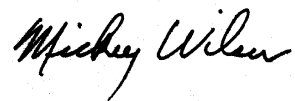
SOURCES OF INFORMATION (continued)

Harris-Stowe State College

Southwestern Missouri State University

Truman State University

University of Missouri

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA

Acting Director

February 14, 2002