

Bill increases public meeting notification period

BY JOHN PECHER
For the Index

Missouri lawmakers are pushing legislation that could ensure government entities follow more specific guidelines in accordance with the Sunshine Law.

In an effort to hold government entities accountable, State Rep. Tim Jones, R-Eureka, wrote Missouri House Bill 316, which will tighten restrictions on closed public meetings. The bill also will extend the notification period for closed and public meetings regarding "hot-button" topics such as eminent domain, zoning and tax increases.

"I'm looking for more transparency and accessibility in government," Jones said. "Citizens should be able to get the information that they're entitled to."

Jones said he had concerns about local municipal government entities not providing public access to documents. He said that during his experience as an alderman he realized some of the faults of community government entities.

"Through no fault of their own, city councils become a little lax," Jones said. "[They] have a responsibility to make documents available in an easily accessed format and to make sure that public business is being conducted publicly ... and provide a little more accountability to the citizens who they represent."

Charles Davis, University of Missouri professor of journalism, said the bill gives the Missouri Sunshine Law more specificity.

"There have been a number of tiffs and taxes that have been approved within 24 hours' notice," Davis said. "[House Bill 316] will make sure that no more closed settlement agreements will occur, and that's a real improvement."

Davis also is the executive director of the National Freedom of Information Coalition, an organization that he said is dedicated to defending the public's right to oversee government proceedings.

The bill was passed unanimously by the Special Committee on General Laws with a vote of 14-0 April 7 and is headed to the House floor for debate.

State Rep. Scott Lipke, R-Cape Girardeau, introduced House Bill 62 in January. Although the bill mostly deals with crime prevention, it contains a clause that refers to access to police records. The clause allows police departments to close files that concern an officer's violation of departmental policy but no criminal act, stating that "records and documents pertaining to internal investigations by a law enforcement agency on the fitness and conduct of [an officer are] to remain confidential" unless the records are needed for a criminal investigation.



Kayla Brooner/For the Index
State auditor Susan Montee answers questions from reporters about the intricacies of the Sunshine Law.

Lipke was unavailable for comment. House Bill 62 is pending perfection in the Missouri House of Representatives. Should it be approved by that body, the legislation would go into effect Sept. 28.

Discussion of House Bills 316 and 62 come just shy of one year since former Gov. Matt Blunt exited office amid questions regarding the applicability of

the Sunshine Law to Internet records. An official investigation launched by then Attorney General Jay Nixon specifically targeted obtaining government e-mails and whether they should be considered a matter of public record.

Tom Durkin, Missouri Sunshine Law public education director, said the type of message being transmitted determines a document to be a public matter,

not the type of communication.

"I think that any time that you're going to be advancing government policy, regardless of how it's done, it will be open to Sunshine inquiries," Durkin said. "It is not the instrument of conveyance that matters — it's what's being conveyed. So if what's being conveyed could be construed as public business, then it doesn't matter how it's being conveyed."

According to Missouri Statute 610, e-mails sent to two or more recipients are open to the public if the message concerns a matter of public business. Henry Herschel, Blunt's general counsel, asserted that government e-mails were not a matter of public record, according to statements given Sept. 11 and 14 of 2008.

A year later, the results of Nixon's investigation into the Blunt administration still are not freely available on the Internet. According to a report on www.sunshineweek.org, Missouri comes in at number 29 out of all 50 states in a national survey that ranked the amount of free government information available on the Internet.

"There is something pretty wrong if the government can flaunt the law, and there are no repercussions, really," Davis said. "As a citizen and a journalist, it can be extremely frustrating."

Open records audit of local agencies produces nearly two-thirds compliance

BY STEPHANIE HALL
Features Editor

In an audit of 53 local government agencies, only 65 percent complied with the request for the minutes from their last meeting of 2008.

According to the Sunshine Law, these agencies in Macon and Adair Counties were obligated to either send the minutes or contact the requestor within three business days.

Only 34 of 53 agencies replied in an appropriate fashion, contacting reporters with minutes or an estimated time of compliance. According to the 1999 state audit of government entities, 52 percent complied with the Sunshine Law. Although there was a 12 percent increase in response, the numbers still are low.

Out of the 53 entities audited, nine government agencies never responded to the letters, and 10 responded after the acceptable time period.

A letter requesting meeting minutes was sent to the board of trustees of the Village of Millard's March 16, and three weeks later no response had been received. Margaret Ferrell, clerk for the Village of Millard, said she did not immediately receive the letter. She said the board's mail is sent to a central mailbox, where a board member receives it and then gives Ferrell the mail the weekend before meetings.

"There is a one-month time frame [for mail], unless it's for an emergency," she said. "Unless they have to sign for it. [Then] they know it's something important, so they will go ahead and open it. Otherwise it goes to the addressee."

Ferrell said that when she gets requests, she waits to show them to the board before sending them out.

"Even though it's an open record, I go through the board before [I] do some of those things," she said.

The board of trustees for South Gifford responded within the three-day time frame, but, like Millard officials, waited until their meeting time to deliver it to the right person.

In an e-mail response to the request, Dean Aholt, chairman of the board of South Gifford, stated, "The person that has those [minutes] will be presented your letter at the next meeting."

As of publication, no minutes had been received from the board of South Gifford.

In their initial responses, five agencies asked for the reason the documents were needed. According to the Sunshine Law, no

reason is needed to get public documents.

Of the 34 agencies that did respond on time, many used the Internet to make the documents easier to obtain. Many of them responded via e-mail, cutting down on response time.

Macon County was one of the entities that complied with the Sunshine Law during the study. Macon County Clerk Pat Clarke said she tries to release the meeting minutes to the public.

"After every commission meeting, the minutes [are] approved. I fax them to a radio station in Moberly that has requested [them] and I fax them to the Macon newspaper and the La Plata newspaper," Clarke said.

She said she rarely receives requests from citizens, unless something big happened that people want to have information about.

"When we had the health ordinance — and that was a big issue — we had several requests then for back minutes to see if [government officials] had done it properly," Clarke said.

Additional reporting by Kayla Brooner and Paul Vogl

"When we had the health ordinance, ... we had several requests then for back minutes to see if [government officials] had done it properly."

Pat Clarke
Macon County Clerk

Local audit modeled after McCaskill's test

BY LOGAN JACKSON
Staff Reporter

Government transactions are open to the public, according to state law.

The Sunshine Law states that a government entity must respond to a request for records open to the public within a three-day period. The entity doesn't have to send the records to the requester during that time period but must make some type of contact, either through an e-mail or a formal letter.

State Auditor Susan Montee said everyone should be familiar with the Sunshine Law.

"It's a good time to talk about the Sunshine Law again because things are changing," Montee said. "We've gotten some of these local entities into the mindset that they have to keep documents and send them out."

In a study, reporters for the Index sent a letter to all of the governmental entities in Adair County and Macon

County to see if they were aware of the Sunshine Law and would comply accordingly. Macon County was chosen because it is the largest adjacent county to Adair County.

The test was based on similar research done in 1999 by former State Auditor Claire McCaskill in which more than 1,000 letters were sent to randomly chosen entities throughout Missouri, asking for the minutes from their last board meetings. A few more than half of the entities complied, according to the study.

Montee said the 1999 test was sparked by McCaskill's suspicions that some entities didn't know enough about the law.

"Claire came from a background as a prosecutor," Montee said. "As a prosecutor, those are the places that people first go to to complain about not getting access to things. Claire came into this office with the mindset that there were certain issues and certain areas that needed to be looked

at. The 1999 review confirmed what she already thought, that there were problems with the local governments complying."

In the Index study, reporters wrote the letters in the style of a normal citizen. They asked for the minutes from the last meeting of 2008. There was no mention of the Sunshine Law in the letter. All of the letters were sent from the Kirksville post office March 16.

The State Auditor supplied the list of entities in Adair County. The Macon County Clerk created the list of entities in Macon County and gave it to the reporters.

Under the law, the government entities should have responded by March 19. Entities were considered in compliance if a response was post-marked by March 19. The most common type of response was by e-mail. Several letters were received in the mail in the three-day time frame, but many others replied after the three-day period.

	Initial Response, Complied within the 3 day time limit	Eventually complied after the 3 day time limit passed	Final Response, meeting minutes received or accessed
Macon Co. E-911	yes		yes
City of Elmer	no	yes	yes
Public Water Supply District 3	yes		yes
Macon Co. Commission	yes		yes
Shelby Co. R-IV School	yes		yes
Adair Co. PWSD#1	yes		yes
Atlanta C-3 School	no	yes	yes
Village of Gibbs	no		no
Macon Co. Board for DDC	no	yes	yes
La Plata Nursing Home	yes		yes
Adair Co. Public Library	yes		yes
Macon School District	yes		yes
City of New Cambria	no	yes	yes
City of Atlanta	yes		yes
La Plata Special Road	no		no
Clarence Nursing Home	no		no
Chariton River Drainage District	no		no
Callao C-8 School	yes		yes
Knox County R-1 School	yes		yes
City of Bevier	yes		yes
Adair County R-1 School	no	yes	yes
Twin Pines Adult Care Center	no	yes	yes
Kirksville City Clerk	yes		yes
Public Water Supply District 1	yes		no
La Plata Community Fire Protection District	no		no
Samaritan Hospital	no		no
Macon County Ambulance District	yes		yes
Adair County Health Department	yes		yes
Hudson Township Special Road District	no	yes	yes
Brashear School District	yes		yes
City of Greentop	yes		yes
Ethel City Meeting	yes		no
Salisbury R-IV Schools	yes		yes
City of LaPlata	yes		yes
Bevier C-4 School	no		no
City of Novinger	no	yes	yes
City of Callao	yes		yes
North Shelby School	yes		no
Thomas Hill Public Water Supply	yes		yes
Kirksville R-III School	yes		yes
ACAD Board	no		no
MC K-12	yes		yes
Macon County Health	no	yes	yes
Lock Haven Nursing Home	yes		yes
Macon County Park Board	yes		yes
Adair County Clerk	yes		yes
Sullivan County Water District	yes		yes
City of Macon	no	yes	yes
Board of South Gifford	yes		no
Bucklin R-2 School	yes		yes
Adair County SWCD	yes		yes
Village of Millard	no		no
La Plata R-II School District	yes		yes

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