

# Ask legislators for support of Sunshine Law changes

## *Don't let opportunity slip away*

**B**y the time this column lands on your desk, the spring break recess will be over for the Missouri legislature and they'll be in the long home stretch.

Time is running short to get a sunshine law bill passed this year. 2013 is an important year in Missouri's sunshine law history, as you well know, having just come through Sunshine Week.

A number of you ran Doug Crew's column outlining the history of this law in the state. Some journalists in the state did their own "sunshine surveys" and wrote about how local bodies responded to requests for records.

We appreciate all your efforts, but you are not yet done. We lost some momentum this year when the snowstorm hit and all of you could not make your annual pilgrimage to the Capitol. But yet, legislative efforts involving the sunshine law have been moving along smartly this session.

**S**enate Bill 139, which incorporates language Missouri Press Association supports, was passed out of the Senate on Feb. 12. Considering that it was referred to committee in late January, that's an amazing amount of progress.

Much credit for that effort belongs to Sen. Kurt Schaefer. On the other end of the Capitol, similar language is contained in House Bill 600, introduced by a number of sponsors, including Rep. Chris Kelly, Speaker of the House Tim Jones, and Reps. Stephen Webber, John Wright and Caleb Rowden. However, that bill has not moved since its hearing before the General Laws Committee in the House.

Over the coming weeks, if you see leg-

islators back home, take a few minutes to corner them and tell them that you need their support if a sunshine law bill gets to the floor.

I truly believe there is no doubt that some sunshine law bill will be voted on in coming weeks. Gov. Jay Nixon has called for the legislature to pass an extension on the three public safety exceptions contained in Section 610.021.

We worked late last fall with the Department of Public Safety on language to clarify those exceptions. But when either of the houses takes up a bill with that language in it, your local legislators need to understand that there are more changes than those provisions that

need to be made. Your legislators need to be aware that they should support the additional changes to the law.

These additional changes include several matters that you might mention to your legislators when you see them, or that you might include in an email to your legislators, specifically:

1. The litigation exception needs to be narrowed so that it's not just a "potential cause of action" that triggers closing a meeting under the litigation exception, because anyone can file suit any time for



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any reason, and that's not the spirit in which this exception was written.

It's clearly meant to allow a public body to consider whether to resolve a conflict that exists before it reaches the point of a lawsuit being filed. It's not meant to cover any scenario where a public body thinks its discussion will anger a citizen. New language in this section helps make that clear.

2. The biggest change in the law is that the penalty for a violation has been reduced from \$1,000 to \$100, and there no longer needs to be proof of a "knowing" violation. (There is still a fine of up to \$5,000 for purposely violating the law.) In addition, however, the public body would have to pay attorney fees if it lost a sunshine lawsuit.

The idea is that this creates an incentive for public bodies to settle disputes. It makes violation of the law akin to getting a speeding ticket. The judge will still be the decision-maker as to what is a reasonable attorney fee for the plaintiff's lawyer, if the case is taken to court. If the case is settled, the attorney fees could be extremely minimal, or nonexistent.

**T**hat seems, however, to be lost upon municipal organizations in the state, who are continuing to cry loudly to legislators that this will cost them significant amounts of money and that this is unreasonable.

It's time your voices were heard, too. Your representatives need to know that this change is very important to you, and to the public at large. Our time is short to get changes this session, and it's time for you to speak. Each of you can help make this happen this session.

I'm always glad to answer any questions you might have. And I appreciate all that each of you does to help us change the law to improve access to public information for your readers.

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