

Sunshine Law applies to political committees



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By JEAN MANEKE
MPA Legal Consultant



(Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000; jmaneke@manekelaw.com.)

Several of you have called the hotline in recent weeks in connection with meetings by the local political committees in your county. Apparently there have been a number of vacancies occur since summer in political offices and the local Democratic or Republican committees have met to select their nominees for the special elections to fill those offices.

Questions have been raised about whether the committees need to post notice of their meetings, whether the public can attend these meetings and whether the committees need to take their votes to select the candidate in open meetings or whether they can vote in closed meetings.

In short, the questions have focused on whether these committees are public governmental bodies and therefore subject to the sunshine law.

I always begin these inquiries by looking to see whether the entity we are talking about is a "public governmental body" under the sunshine law. If they aren't, then the sunshine law doesn't apply to the entity. In this case, the political parties' county committees clearly fall under the law because they are an entity created by statute. (Chapter 115, specifically Section 115.607, sets out how the county committee is created.) An entity created by statute falls under the sunshine law.

Once you determine that, then you know that all the provisions contained in Chapter 610 apply to the committee. It must post notice of its meetings 24 hours in advance. Its meetings must be open to the public. It must take minutes of its meetings. And it cannot go into closed session unless it can cite one of the exceptions to the sunshine law contained in Section 610.021.

Since, in most cases, the committee is voting to select a candidate for a special election, we look to see if that fits under any of the provisions contained in Section 610.021. If that is all they are doing, I can tell you that none of the exceptions contained in that section would allow the meeting to be closed.

The committee cannot take these votes for prospective candidates in closed meetings. To do so would violate the sunshine law. Further, the committee members cannot vote by "secret ballot" to select the candidate. These votes must be recorded and made available to the public as roll call votes, and they must be recorded in the minutes in that fashion.

Of course, many times these committees have failed to follow these laws. If that has happened, what is the result? I am not aware of any time this issue has been brought before a court, so I cannot tell you for certain what a court would do with such a violation. I am certain, of course, it would depend in part on the facts in that particular case.

According to the penalty provisions in the sunshine law, if an action of the committee violated the law, then a court could undo the action taken that violated the law. That could require that the committee meet again and revote on the candidate.

With the tight deadlines for getting these names on ballots in the county, that could represent a disaster for a county committee and its candidate.

What if a candidate were to be stricken from the ballot because the committee violated the sunshine law? That would clearly be bad news for that political party in the county.

Of course, in addition, a court could choose to fine the members and force them to pay the attorneys fees of

the party filing the suit, but that might not be the biggest disaster for the political committee at fault.

I do appreciate that so many of you question these situations when they occur. I got one call from a reporter in Cedar County recently who was shut out of such a committee meeting. She contacted me and then went back to tell the committee that they were violating the law, and she managed to get the meeting open.

What power! Each of you makes a difference in the education of public body members about the law in our state, and it is little steps like this that help to keep public bodies on their toes and the public's right of access protected.

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