

## Attorney general wrong about county committees



### **They are covered by Sunshine Law**

*One of the most frustrating legal tactics in a Sunshine Law case is when the body's members blame their lawyer for giving them bad advice.*

By JEAN MANEKE  
MPA Legal Consultant



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

In his years as Missouri's Attorney General, Jay Nixon has generally been a strong advocate of the Sunshine Law, and I've respected him for his clear black and white stand on this issue.

But when he addressed our members at Day at the Capitol on Feb. 16 he should have worn his grey suit. He waffled on an issue that clearly is black and white. And on that issue, Jay Nixon's position is, simply, wrong.

Calls to the hotline in late 2005 included a significant number relating to local political committees meeting to select persons to nominate for vacancies for gubernatorial appointments, and taking secret ballot votes in closed sessions as they made those selections.

I wrote about this problem in your January Missouri Press News issue, pointing out that the members of these committees are elected by the voters, pursuant to Missouri Statute 115.607. Clearly, these entities are "entities created by statute," and therefore they are subject to Missouri's Sunshine Law, and those votes should be taken publicly in open meeting.

Although there's plenty of grey in the Sunshine Law, this is NOT one of those issues. This is Black Letter Law, without a doubt.

One of our members, armed with that column, called the hand of a committee in southwest Missouri. She suggested they check with the Missouri Attorney General's office if they wanted a second opinion.

They did, and reported back to her that they were told that while they were subject to the Sunshine Law, the nomination of a candidate for a judicial vacancy (as opposed to, say, a nomination to fill an unexpired term of an elected official) was NOT a "statutory duty" and therefore wasn't covered by the Sunshine Law.

Huh? Where in the Sunshine Law does it talk about "statutory duties?" Surely that wasn't the opinion of OUR Attorney General, who has been a strong advocate of our Sunshine Law.

So at the forum in Jefferson City, I asked him point-blank about whether local political committees were subject to the Sunshine Law.

"They are not public governmental bodies under 610," he said, referring to chapter 610, Missouri's Sunshine Law. "They are just like the caucuses that meet in this room," he said, referring to the Democratic and Republican legislative caucuses made up of the members elected to the legislature, that meet in the Capitol.

Wrong. Courts have clearly ruled that those caucuses are NOT public governmental bodies because they are not entities created by statute. They are entities formed by the political bodies for political purposes. The local political committees are clearly different because they are entities established by statute.

We're talking about apples and oranges here, General Nixon. They may both be fruits, indeed, but surely someone who understands the Sunshine Law as well as you do can grasp that basic difference.

With all due respect, General Nixon, you are wrong and you need to recognize this mistake and correct the misconception you are supporting among local political committees in the state.

One of the most frustrating legal tactics in a Sunshine Law case is when the body's members, attempting to duck liability, blame their lawyer for giving them bad advice. Some lawyers advising such bodies indeed do give them bad advice.

We look to your office to explain the Sunshine Law to them. When such bodies think the Sunshine Law doesn't apply to them, "We look for ways to disabuse them of that opinion," Nixon said to our members at Day

at the Capitol.

We need you to do exactly that here, General Nixon. Step up to the plate and take a stand on this issue. Don't disappoint us. Wear your black suit this time and have it mean something.