



Thomas A. Schweich  
Missouri State Auditor

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# Summary of State and Local Audit Findings - Sunshine Law



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<http://auditor.mo.gov>



**Thomas A. Schweich**  
Missouri State Auditor

# CITIZENS SUMMARY

## Summary of State and Local Audit Findings - Sunshine Law

Background	This report was compiled using the nearly 300 audit reports issued between January 2012 and December 2013. The objective of this report was to summarize recent audit issues and recommendations regarding the Sunshine Law, Chapter 610, RSMo, and other issues related to meeting minutes.
Open Meetings	Formal meeting minutes were not prepared or maintained for some open meetings, and minutes maintained did not always include sufficient detail. Minutes of affiliated boards, committees and commissions were not always prepared or maintained by the custodian of records. Several entities failed to document the reasons for closing meetings, the specific section of law that allowed for the closing, and the votes regarding meeting closure. Minutes were not always approved timely and some entities conducted business outside of regular open meetings.
Closed Meetings	Minutes were not prepared or maintained for some closed meetings, and minutes maintained did not always include sufficient detail. Several entities did not document how some issues discussed in closed meetings were allowable under state law, and some discussed issues other than the specific reasons cited for going into closed session or issues discussed were not allowable. Some governing bodies did not always publicly disclose the final disposition of applicable matters discussed in closed sessions.
Public Records	Some governing bodies did not have adequate policies and procedures regarding public access to records, and some did not maintain sufficient documentation to demonstrate compliance with the law.
Meeting Agendas	Some entities did not prepare, post, and/or retain tentative agendas, or the agendas did not disclose sufficient information. Also, open meeting agendas routinely indicate the potential for a closed meeting, and all topics listed on the agendas were not routinely discussed.
Legislative Issues	Neither the Missouri House of Representatives nor the Missouri Senate considers the Sunshine Law applicable to records of individual members. The Missouri Employers Mutual Insurance Company (MEM) contends it is neither a public governmental body nor a quasi-public governmental body for purposes of the Sunshine Law, but it was formed under state statutes subject to the Sunshine Law. We recommend the General Assembly amend the law to apply to individual legislators while carving out legitimate and necessary exceptions and determine whether the MEM is subject to the Sunshine Law.

Because of the limited objective of this review, no overall rating is provided.

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# THOMAS A. SCHWEICH

## Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor  
and  
Honorable Chris Koster, Attorney General  
and  
Members of the General Assembly  
Jefferson City, Missouri

This report was compiled using audit reports issued between January 2012 and December 2013 (report numbers 2012-001 through 2012-146 and 2013-001 through 2013-150). The objective of this report was to summarize recent audit issues and recommendations regarding the Sunshine Law, Chapter 610, RSMo, and other issues related to meeting minutes.

Recommendations address a variety of topics including open and closed meetings, public records, meeting agendas, and legislative issues. These topics were addressed in 44 reports issued between January 2012 and December 2013. Appendix A provides a list of each report, and the publication date, that included the issues presented.

A handwritten signature in black ink that reads "Thomas A. Schweich".

Thomas A. Schweich  
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor: Harry J. Otto, CPA  
Director of Audits: Regina Pruitt, CPA  
Audit Manager: Keriann Wright, MBA, CPA  
In-Charge Auditor: Josh Allen, CPA, CFE

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# Summary of State and Local Audit Findings - Sunshine Law Audit Issues

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## 1. Open Meetings

1.1 Preparation of meeting minutes	<p>Formal meeting minutes were not prepared or maintained for some open meetings. In addition, minutes and records of meetings of affiliated boards, committees, and commissions were not always prepared. Further, copies of minutes and records of the affiliated boards, committees, and commissions were not maintained by the official custodian of records of the governing body.</p> <p>Section 610.020, RSMo, provides that minutes of open meetings shall be taken and retained by the public governmental body.</p>
Recommendation	<p>Ensure minutes are prepared and retained to support all open meetings, including affiliated boards, committees, and commissions, and copies are maintained by the official custodian of records of the governing body.</p>
Report source	<p>2013-135 (Public Safety/Office of the Director) 2013-085 (St. Louis Public School District) 2013-025 (General Assembly and Supporting Functions/House of Representatives) 2013-007 (City of Diamond) 2012-069 (Chariton County) 2012-016 (The School District of Springfield, R-XII)</p>
1.2 Detail in meeting minutes	<p>Meeting minutes did not always include sufficient detail of matters discussed or actions taken, and many decisions were not adequately documented in the meeting minutes.</p> <p>Section 610.020, RSMo, requires minutes of meetings include the date, time, place, members present, members absent, and a record of votes taken.</p>
Recommendation	<p>Ensure meeting minutes include adequate detail of the issues discussed and the decisions made.</p>
Report source	<p>2013-135 (Public Safety/Office of the Director) 2013-127 (City of Savannah) 2013-066 (Village of Deerfield) 2013-007 (City of Diamond) 2012-126 (Polk County)</p>
1.3 Reasons for closing meetings	<p>Reasons for closing meetings, the specific section of law that allows for the closed meetings and the vote to close the meetings were not adequately documented within the open meeting minutes.</p>



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Summary of State and Local Audit Findings - Sunshine Law  
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Section 610.022, RSMo, requires that before any meeting may be closed, the question of holding the closed meeting and the reason for the closed meeting shall be voted on during an open meeting.

**Recommendation**

Ensure the vote to close a meeting is documented in the open meeting minutes, along with the reason for closing the meeting and the specific section of law that allows the meeting to be closed.

**Report source**

2013-131 (Gentry County)  
2013-127 (City of Savannah)  
2013-103 (Ste. Genevieve County)  
2013-098 (City of Liberal)  
2013-062 (Southern Dallas County Fire Protection District)  
2013-051 (Daviess County)  
2013-034 (City of Brentwood)  
2013-033 (Department of Public Safety/State Emergency Management Agency)  
2013-022 (City of Buckner)  
2013-007 (City of Diamond)  
2013-003 (Cedar County)  
2013-002 (Caldwell County)  
2012-145 (McDonald County)  
2012-133 (Lake Lotawana Community Improvement District)  
2012-127 (Vernon County)  
2012-125 (Montgomery County)  
2012-082 (Kansas City Board of Police Commissioners)  
2012-068 (Clark County)  
2012-040 (Stone County)  
2012-016 (The School District of Springfield, R-XII)  
2012-008 (Monarch Fire Protection District)  
2012-007 (Natural Resources/Soil and Water Conservation Program)  
2012-005 (Higher Education/Southeast Missouri State University)  
2012-001 (Madison County)

**1.4 Open meeting**

Business was conducted outside of regular open meetings.

Section 610.020, RSMo, provides that governing bodies of all political subdivisions are required to conduct business in regular open meetings. Any time a quorum of board members meet in person or by phone and transact public business, they are subject to the Sunshine Law.

**Recommendation**

Ensure business of the governing body is conducted in compliance with the Sunshine Law.

**Report source**

2013-066 (Village of Deerfield)  
2012-016 (The School District of Springfield, R-XII)



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Summary of State and Local Audit Findings - Sunshine Law  
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1.5 Approval of minutes  
1.5 Approval of minutes

Meeting minutes were not always reviewed and approved in a timely manner.

To ensure all decisions are properly documented and minutes are properly maintained, all minutes should be reviewed and approved timely.

Recommendation

Ensure meeting minutes are properly and timely reviewed and approved for all meetings.

Report source

2013-085 (St. Louis Public School District)  
2012-126 (Polk County)  
2012-069 (Chariton County)

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## **2. Closed Meetings**

**2. Closed Meetings**  
2.1 Preparation of meeting  
minutes

Minutes were not prepared or maintained for some closed meetings.

Section 610.020, RSMo, provides that minutes of closed meetings shall be taken and retained by the public governmental body.

Recommendation

Ensure minutes are prepared and retained to support all closed meetings.

Report source

2013-131 (Gentry County)  
2013-127 (City of Savannah)  
2013-103 (Ste. Genevieve County)  
2013-083 (Crowder College)  
2013-068 (Crawford County)  
2013-034 (City of Brentwood)  
2013-022 (City of Buckner)  
2013-007 (City of Diamond)  
2013-002 (Caldwell County)  
2012-145 (McDonald County)  
2012-133 (Lake Lotawana Community Improvement District)  
2012-130 (Village of Altamont)  
2012-127 (Vernon County)  
2012-118 (Benton County)  
2012-109 (Lawrence County)  
2012-061 (Wright County)  
2012-040 (Stone County)  
2012-004 (Nodaway County)

2.2 Detail in meeting  
minutes

Closed meeting minutes did not include sufficient details of discussions held and decisions made, and votes or final actions, if any, taken by the governing body during closed meetings.



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## Summary of State and Local Audit Findings - Sunshine Law Audit Issues

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Such documentation is important to both demonstrate compliance with statutory provisions and provide information for future reference should concerns or questions be raised regarding topics addressed in closed meetings. Sections 610.020 and 610.021, RSMo, provide requirements regarding closure of meetings and documentation.

### Recommendation

Ensure closed meeting minutes include the information necessary to provide a complete record of all significant matters discussed and actions taken.

### Report source

2012-130 (Village of Altamont)  
2012-125 (Montgomery County)  
2012-016 (The School District of Springfield, R-XII)

### 2.3 Allowable topics

The governing body did not document how some issues discussed in closed meetings were allowable under state law and some issues discussed during closed meetings were not allowable.

Chapter 610.021, RSMo, states the specific reasons governmental bodies are allowed to close a public meeting.

### Recommendation

Ensure items discussed in closed meetings are allowed by state law.

### Report source

2013-139 (City of Bolivar)  
2013-127 (City of Savannah)  
2013-103 (Ste. Genevieve County)  
2013-098 (City of Liberal)  
2013-085 (St. Louis Public School District)  
2013-068 (Crawford County)  
2013-051 (Daviess County)  
2013-007 (City of Diamond)  
2013-003 (Cedar County)  
2013-002 (Caldwell County)  
2012-141 (Revenue/Missouri State Lottery Commission)  
2012-130 (Village of Altamont)  
2012-082 (Kansas City Board of Police Commissioners)  
2012-068 (Clark County)  
2012-058 (Putnam County)  
2012-016 (The School District of Springfield, R-XII)  
2012-008 (Monarch Fire Protection District)  
2012-005 (Higher Education/Southeast Missouri State University)  
2012-001 (Madison County)

### 2.4 Topics discussed

Some topics discussed during closed meetings were other than the specific reasons cited for going into closed meeting.



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## Summary of State and Local Audit Findings - Sunshine Law Audit Issues

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	<p>Section 610.022, RSMo, requires a closed meeting, record, or vote to be held only for the specific reasons announced publicly at an open session. In addition, this law provides that public governmental bodies shall not discuss any other business during the meeting that differs from the specific reason used to justify such meeting, record, or vote.</p>
<b>Recommendation</b>	<p>Limit issues discussed in closed meetings to only those specific reasons cited to justify the closed meeting.</p>
<b>Report source</b>	<p>2013-131 (Gentry County) 2013-127 (City of Savannah) 2013-003 (Cedar County) 2013-002 (Caldwell County) 2012-141 (Revenue/Missouri State Lottery Commission) 2012-082 (Kansas City Board of Police Commissioners) 2012-058 (Putnam County) 2012-016 (The School District of Springfield, R-XII)</p>
<b>2.5 Publication of final disposition</b>	<p>Some governing bodies did not always publicly disclose the final disposition of applicable matters discussed in closed sessions.</p> <p>Section 610.021, RSMo, requires the final disposition of certain matters discussed in closed session to be made public.</p>
<b>Recommendation</b>	<p>Ensure matters discussed and actions taken in closed meetings are properly made available to the public, as required by law.</p>
<b>Report source</b>	<p>2013-085 (St. Louis Public School District) 2012-082 (Kansas City Board of Police Commissioners)</p>

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## 3. Public Records

<b>3.1 Public access policy</b>	<p>The government did not have adequate policies and procedures regarding public access to records or the policy was not in compliance with state law. Additionally, the government did not maintain complete and detailed documentation to support the rates charged for providing copies of public records, and fees charged were not consistently applied.</p> <p>Section 610.026, RSMo, describes the allowable fees for copying public records, and Section 610.023, RSMo, lists requirements of making records available to the public.</p>
<b>Recommendation</b>	<p>Establish adequate written policies and procedures regarding public access to and/or copies of records to ensure compliance with state law.</p>



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Report source 2013-140 (Public Water Supply District #1 of Carroll County)  
2013-139 (City of Bolivar)  
2013-066 (Village of Deerfield)  
2013-062 (Southern Dallas County Fire Protection District)  
2013-049 (Pike County)  
2012-016 (The School District of Springfield, R-XII)

**3.2 Documentation of  
requests for records**

The government did not maintain a record documenting information requests received, if any, or copies of records provided; therefore, the proper handling of any Sunshine Law information requests could not be determined.

Section 610.023, RSMo, provides each request for access to public records shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request was received.

**Recommendation**

Maintain a public request log to help ensure compliance with state law.

**Report source**

2012-016 (The School District of Springfield, R-XII)  
2012-008 (Monarch Fire Protection District)

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**4. Meeting Agendas**

**4.1 Agenda preparation**

A tentative agenda was not prepared, posted, and/or retained for all meetings or the agenda did not disclose sufficient information pertaining to the upcoming meeting.

Section 610.020, RSMo, requires public entities to give notice of the time, date, and place of each meeting, and its tentative agenda, to advise the public of matters to be considered. The notice shall be given at least 24 hours prior to the meeting.

**Recommendation**

Ensure proper notification and agendas for public meetings are given and sufficiently detailed or reasons for any deviation are documented in the meeting minutes in accordance with state law.

**Report source**

2013-098 (City of Liberal)  
2013-066 (Village of Deerfield)  
2013-062 (Southern Dallas County Fire Protection District)  
2013-033 (Department of Public Safety/State Emergency Management Agency)  
2013-007 (City of Diamond)  
2012-016 (The School District of Springfield, R-XII)



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**4.2 Closed meeting notices** Open meeting agendas routinely used the same statement to indicate the potential for a closed meeting, and all topics listed on the agendas were routinely not discussed.

Section 610.022, RSMo, requires the specific reasons for closing a meeting be announced publicly at an open meeting and entered into the minutes. A blanket statement which includes a potential issue(s) that may be discussed in a closed session appears to circumvent the intent of the law.

**Recommendation** Ensure agendas state the specific reasons for going into a closed meeting.

**Report source** 2013-127 (City of Savannah)  
2012-005 (Higher Education/Southeast Missouri State University)

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## **5. Legislative Issues**

**5.1 General Assembly** The Missouri House of Representatives and the Missouri Senate do not consider the Sunshine Law applicable to records of individual members. The law related to this matter is ambiguous and no Missouri court has ruled on this specific issue. We are cognizant of the need to keep certain records confidential; however, correspondence clearly relating to the conduct of public business should be subject to public scrutiny.

Section 610.010(4), RSMo, defines a "public governmental body," in part, as, any legislative, administrative or governmental entity created by the Missouri Constitution or statutes of the state. The Sunshine Law defines a "public record," in part, as, any record whether written or electronically stored, retained by or of any public governmental body including any report, memorandum, or other document. Section 610.025, RSMo, also provides that any message relating to public business by electronic means should be concurrently transmitted to either the member's public office computer or the custodian of records in the same format.

**Recommendation** The General Assembly amend the Sunshine Law so that it clearly applies to individual members while carving out legitimate and necessary exceptions to public disclosure.

**Report source** 2013-026 (General Assembly and Supporting Functions/Senate)  
2013-025 (General Assembly and Supporting Functions/House of Representatives)

**5.2 Missouri Employers Mutual Insurance Company (MEM)** The MEM contends it is neither a public governmental body nor a quasi-public governmental body for the purposes of the Sunshine Law; however, the MEM was formed under state statutes subject to the Sunshine Law.



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## Summary of State and Local Audit Findings - Sunshine Law Audit Issues

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Section 610.010(4), RSMo, defines a public governmental body as any governmental entity created by statute when operating in an administrative capacity. Section 610.010(4)(f), RSMo, defines a quasi-public governmental body as any corporation authorized to do business pursuant to Chapters 352, 353 or 355 of the Missouri statutes, or performs a public function as evidenced by a statutorily based capacity. Section 287.902, RSMo, states that MEM was created to insure Missouri employers against liability from workers' compensation liability and ". . . shall have the powers granted a general-not-for-profit company pursuant to Section 355.090, RSMo, . . .".

### Recommendation

The General Assembly determine whether the MEM is subject to the Sunshine Law and/or clarify state law as deemed appropriate.

### Report source

2012-011 (Missouri Employers Mutual Insurance Company)