

# Expect new challenges for MPA in 2020

## *New legislation threatens open access to public records*

The holidays are over and 2020 is here, which of course means that soon our Missouri legislature will be back in session. The lobbyists for Missouri Press Association and its executive staff will be back pounding the halls, watching for measures that give us heartburn.

Already bills are being pre-filed. One is a bill that Missouri Press has worked on for the past year, crafting language with sponsors that will preserve legal notices in Missouri newspapers. In addition, the Association's administration has talked to legislators about how the permanency of running notices in newspapers protects those who rely on such publication for service on parties in court cases or to ensure the public is widely advised of other important matters.

Other pre-filed bills are not so favorable. As a reminder, two years ago, voters in the state approved a constitutional

amendment, informally called the "Clean Missouri" measure. That proposed amendment primarily dealt with lobbyist gifts and how state legislative districts would be drawn after the 2020 census, but a small part of the bill dealt with open records.

Specifically, the bill amended

Article III, Section 19 of the Missouri Constitution to provide that legislative records and records of individual legislators were subject to the Sunshine Law.

Legislators were unhappy, to say the least, about the public approving this measure. Legislators argued that constituents who write their state representative or senator do not intend such communication be public record. Cell phone numbers would become public. Other personal information contained in letters or emails would become public. The legislators' indignation was as obvious and transparent as the law said their records were.

Steps were taken to deal with this issue last year – bills were introduced and moved, but other issues took prominence and the session ended in May last year without any of them passing. Probably the only real response

to this change was the House of Representatives did pass House Rule 127, an internal rule which stated, according to an article in the Jefferson City News Tribune:

"Members may keep constituent case files, and records of the caucus of the majority or minority party of the

House that contain caucus strategy, confidential. Constituent case files include any correspondence, written or electronic, between a member and a constituent, or between a member and any other party pertaining to a constituent's grievance, a question of eligibility for any benefit as it relates to a particular constituent, or any issue regarding a constituent's request for assistance."

Can a House "Rule" override a provision in the State's Constitution? Of course not. But our state legislators were desperate. And in October this year, a non-profit group filed a lawsuit claiming the constitutional mandate was being violated. That case is still pending in Cole County.

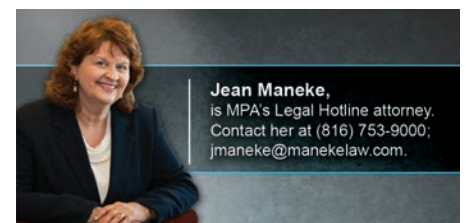
So now bills are beginning to be pre-filed for the 2020 session. And, of course, among the earliest bills to be filed are some which will "fix" what some legislators see as a major issue.

Senator Ed Emery has pre-filed Senate Bill 613, which would create two new exceptions to the open records law under Section 610.021. Those would involve closing records "...retained by the office of a member of the general assembly ... related to a constituent..." and "Any record retained in the office of a member of the general assembly ... that contains information regarding proposed legislation or the legislative process..."

Senators Bill Eigel and Jason Holsman have also filed bills with similar purposes.

So stand back. The fireworks are starting. Clearly, Open Records will be a target of the Missouri legislature this session. Stay tuned!

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