

STATE RECORDS ACT:
PUBLIC RECORDS:

State Records Act does not apply to:
(1) Kansas City Police Board, (2) Kansas City Election Board, (3) Kansas City Area Transportation Authority, (4) Kansas - Missouri Air Conservation Commission, (5) "Bi-State Metropolitan Development District". State Records Act applies to: (1) Air Conservation Commission, (2) Crippled Children's Service, (3) Bridge Commissions.

OPINION NO. 20A

April 24, 1970

Honorable James C. Kirkpatrick
Secretary of State
State of Missouri
Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

This is in response to your request for an opinion from this office as follows:

"The Board of Police Commissioners, Kansas City, is seeking to dispose of some records and has made inquiry of this office.

"This raises the question of whether or not certain agencies in State Government come under Chapter 109, the Public Records Act.

"In addition to the Boards of Police Commissioners, the question also applies to Boards of Election Commissioners, Bi-State Development Authorities, Bridge Commissions, Transportation Authorities, Air Pollution Authorities and Missouri Crippled Children's Service.

"In all of these cases the appointments are

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made by the Governor. Does this make them State Agencies under the Public Records Act, and make it, therefore, our responsibility, under the Public Records Act, to inventory and make provisions for storing and/or destroying their records and to determine what is of archival importance? Also, there is the matter of microfilming."

Section 109.200 Mo. Supp. 1967, provides:

"Sections 109.200 to 109.310 shall be known as 'The State Records Law'."

Section 109.210 Mo. Supp. 1967, provides in part:

"(1) 'Agency', any department, office, commission, board or other unit;"

The question is whether these particular boards or commissions come within the term "Agency" as used in this statute.

Under a literal interpretation of this statute, it would apply to any and all offices, boards and commissions, public or private as well as public offices, boards, commissions and all units with limited authority and jurisdiction created by a county or city. However, a reading of the Act as a whole indicates it was intended to apply only to those public boards, commissions and offices of state-wide jurisdiction.

The reference in the title and in the act itself to "state records" shows the legislative intent that the act is applicable only to records of public boards.

We will consider each of the commissions and boards separately in chronological order as submitted in your letter.

Section 84.350, RSMo 1959, establishes a board of police commissioners for Kansas City consisting of four commissioners and the Mayor of Kansas City.

Section 84.360, RSMo 1959, provides that the Governor of the State with the consent of the Senate shall appoint the four commissioners, each for a definite term of office.

Section 84.420 Mo. Supp. 1967, provides the Board of Police Commissioners shall have the duty and responsibility to preserve the public peace and other designated authority within the boundaries of the city.

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Section 117.050, RSMo 1959, provides for a board of election commissioners for Kansas City to be appointed by the Governor with the advice and consent of the Senate.

Section 117.050, RSMo 1959, provides that the board of election commissioners shall have charge and make provision for all elections to be held in such city or any part thereof, at any time.

It is the opinion of this office that the jurisdiction of the Board of Police Commissioners and the Board of Election Commissioners of Kansas City are not state-wide and therefore they do not come under the provisions of Section 109.200 to 109.310 Mo. Supp. 1967.

Section 234.370, RSMo 1959, provides for the Governor of this State to appoint five commissioners to enter into a compact under Section 234.360, RSMo 1959, with the State of Tennessee to plan, construct, maintain and operate a bridge across the Mississippi River near Caruthersville, Missouri.

Section 234.430, Mo. Supp. 1967, provides the Governor of the State of Missouri by and with the advice and consent of the Senate to appoint three commissioners to enter into a compact with the State of Illinois to plan, construct, maintain and operate a bridge across the Mississippi River at or near Canton, Missouri.

Section 234.580, Mo. Supp. 1967, provides that the Governor of the State of Missouri with the advice and consent of the Senate shall appoint three commissioners to enter into a contract with the State of Illinois to plan, construct, maintain and operate a bridge across the Mississippi River near Crystal City, Missouri.

Although the commissioners appointed under the above statutes are restricted geographically in the location of the bridge, they represent the State of Missouri at large in the performance of their duties and it is our opinion each of these commissions come under the provision of Section 109.200 to 109.310, Mo. Supp. 1967.

Section 238.010, Mo. Supp. 1967, provides that the Governor of the State by and with the advice of the Senate shall appoint three commissioners to enter into a compact with the State of Kansas to create a district known as the Kansas City Area Transportation District embracing Cass, Clay, Jackson and Platte Counties in Missouri for the purpose of operating and maintaining by lease or otherwise a passenger transportation system and facilities within this area.

Section 238.060 and 238.070, Mo. Supp. 1967, provide that

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after the compact is entered into the Governor of the State shall appoint with the advice and consent of the Senate five commissioners each of whom must reside within the territory from which appointed as commissioners of the Kansas City Area Transportation Authority.

It is the opinion of this Department that the commissioners of the Kansas City Area Transportation Authority represent and have jurisdiction only in the geographical area of Cass, Clay, Jackson and Platte Counties in Missouri, and do not represent the State at large and are not a State commission under the provision of Section 109.200.

Section 203.040, Mo. Supp. 1967, provides for the Governor of the State with the advice and consent of the Senate to appoint six commissioners who with the Director of the Missouri Division of Health, shall compose the Air Conservation Commission of the State of Missouri, with authority regarding the prevention, abatement and control of air pollution. These commissioners have state-wide authority and in our opinion come under the provisions of Section 109.200 to 109.310 Mo. Supp. 1967.

Section 203.600, Mo. Supp. 1967, provides for a Kansas - Missouri Air Quality Compact composed of a commission of five commissioners from the State of Missouri and five from the State of Kansas. It further provides the commission shall have jurisdiction over Cass, Clay, Jackson and Platte Counties in Missouri. The Commissioners must reside within the district. Under Section 203.610, Mo. Supp. 1967, the five commissioners from Missouri shall be appointed by the Governor and shall reside within the district. It is our opinion that since these commissions have jurisdiction only over Cass, Clay, Jackson and Platte Counties in Missouri, the commission does not come under the provisions of Sections 109.200 to 109.310 Mo. Supp.

Chapter 201, RSMo 1959, creates an agency of the State known as "Crippled Children's Service". Under Section 201.050, RSMo 1959, the Curators of the University of Missouri are designated as the administrators to administer the program under Sections 201.080 and 201.090, RSMo 1959, and all federal funds and State appropriations or gifts shall be administered by the administrator. These duties are statutory duties and have nothing to do with the constitutional authority of the Curators over the operation of the University.

It is our opinion this agency comes under the provisions of Section 109.200 to 109.310, Mo. Supp. 1967.

Section 70.380 RSMo 1959, provides for the Governor of Missouri with the advice and consent of the Senate to appoint

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five commissioners to enter into a compact between the State of Missouri and the State of Illinois as provided in Section 70.370, RSMo 1959, to be known as the "Bi-State Metropolitan Development District" to embrace the City of St. Louis and St. Charles and Jefferson counties in Missouri and the counties of Madison, St. Clair and Monroe in Illinois. The authority and jurisdiction of this commission is restricted to the City of St. Louis and the counties of St. Charles and Jefferson in Missouri.

It is the opinion of this office that since this commission does not represent the State at large, but only the city and counties above mentioned, it does not come under the provisions of Section 109.200, supra.

CONCLUSION

It is the opinion of this office in regard to the State Records Act that:

1. The Board of Police Commissioners and the Board of Election Commissioners of Kansas City, Missouri, are not under the provisions of Section 109.200 to 109.310, Mo. Supp. 1967.

2. The Bridge Commissions created under Chapter 234 RSMo 1959 are under the provisions of Section 109.200 to 109.310, Mo. Supp. 1967.

3. The Kansas City Area Transportation Authority created under the provision of Chapter 238 Mo. Supp. 1967, is not under the provisions of Section 109.200 to 109.310 Mo. Supp. 1967.

4. The Air Conservation Commission created under the provisions of Chapter 203 Mo. Supp. 1967, comes under the provisions of Section 109.200 to 109.310 Mo. Supp. 1967.

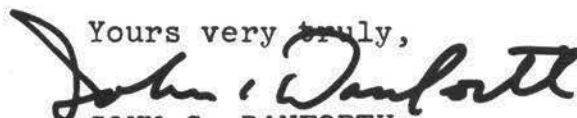
5. The Kansas-Missouri Air Commission created under Section 203.610 Mo. Supp. 1967 does not come under the provisions of Section 109.200 to 109.310, supra.

6. The agency known as the "Crippled Children's Service" established under Chapter 201, RSMo 1959 is under the provisions of Section 109.200 to 109.310, supra.

7. The "Bi-State Metropolitan Development District" created under Section 70.730 RSMo 1959, does not come under the provisions of Section 109.200 to 109.310, supra.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,


JOHN C. DANFORTH
Attorney General