

PUBLIC RECORDS:
CITIES, TOWNS & VILLAGES:
CONSTITUTIONAL CHARTER CITIES:

Constitutional charter cities
come within the provisions of
the State and Local Records
Law, Sections 109.200 et seq.,
V.A.M.S.

OPINION NO. 4

April 11, 1974

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

Dear Mr. Kirkpatrick:

This is in response to your request for an opinion on the question of whether or not constitutional charter cities are subject to the State and Local Records Law, Sections 109.200 et seq., V.A.M.S.

You also inquire whether there are state and local agencies which are not included within the provisions of that law. Your second question is too general to answer. Should a dispute arise in the future concerning a specific agency, this office will give a ruling at that time concerning the applicability of law to that agency.

However, your attention is directed to Opinion No. 285 dated September 14, 1965, to Kirkpatrick, which held that a predecessor act concerning public records did not apply to the University of Missouri. The reasoning of that opinion applies equally to the present law. Therefore, the University of Missouri is not covered by the State and Local Records Law.

Your first question depends on whether or not the definition of the word "agency" in Section 109.210(1) includes a constitutional charter city. Agency is defined as:

"'Agency', any department, office, commission, board or other unit of state government or any political or administrative subdivisions created for any purpose under the authorities of or by the state of Missouri;"

Honorable James C. Kirkpatrick

We note that subsection 1 of Section 109.255, V.A.M.S., authorizes the Secretary of State to appoint local board members as follows:

"The secretary of state is hereby authorized to appoint and serve as chairman of a local records board to advise, counsel, and judge what local records shall be retained, copied, preserved, or disposed of and in what manner these functions shall be carried out by the director. This board shall represent a wide area of public interest in local records and shall consist of at least twelve members one of whom shall represent school boards, one constitutional charter city, one third class city, one fourth class city, one village, one township, one for each class of county, one higher education, one historical society and such other members as the secretary of state shall direct." (Emphasis added)

This provision indicates a clear legislative intent that constitutional charter cities are included within the purview of these statutes.

In our view a constitutional charter city is an "agency" within the provisions of the State and Local Records Law. It is also our view that such state law controls notwithstanding any contrary city charter provisions.

CONCLUSION

It is the opinion of this office that constitutional charter cities come within the provisions of the State and Local Records Law, Sections 109.200 et seq., V.A.M.S.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Yours very truly,



JOHN C. DANFORTH
Attorney General