

Tennessean

Gail Kerr: Last thing public needs is more business done in dark

Imagine 26 of the 40 Metro Council members deciding, in secret, to raise your property taxes. They don't notify taxpayers or accept their input. No vote is recorded. No minutes are taken. No reporters or cameras are allowed to cover the decision. Then the full council passes it with no discussion and an unrecorded voice vote.

That's the dangerous, real possibility that will happen if the legislature passes a horrific proposal to water down the state's open meetings "sunshine" law. School boards could meet in private, so long as they are just shy of a quorum, and redo the lines that determine where your child attends school. Waste management boards could meet behind locked doors and decide to put a landfill in your neighborhood. A majority of the Metro Planning Commission could meet on the sly and approve a new Walmart in your neighborhood.

"Basically they are rolling back 37 years of good government that resulted from the sunshine law," said Frank Gibson, public policy director for the Tennessee Press Association and the founding director of the Tennessee Coalition for Open Government.

Gibson explained that this idea was first born in 2007 in Memphis, but died in a legislative study committee. Williamson County Commissioner Bob Barnwell launched the latest effort when he was president of the county commissioners association.

Barnwell is trying to get county commissions to adopt resolutions asking the legislature to rewrite the sunshine law to say that members of public bodies can meet in secret with no notice, so long as they don't have a quorum. Under Robert's Rules of Order, a quorum is a majority of the members of a body.

By their own rules, a quorum of the Metro Council is two-thirds of the 40-member Metro Council, or 27 members. Up to 26 would be able to do business in private. In Rutherford County, up to 10 county commissioners could meet secretly and discuss your business.

So far, three county commissions have passed it, in Williamson, Obion and Lewis counties. Two have turned it down, in Rhea and Anderson counties. Rep. Glen Casada, R-Franklin, is preparing a bill to make the change. A group of open government advocates are jumping in to try and head that off at the pass.

“We intend to focus on it as a major activity,” said Stewart Clifton, a lobbyist with Clifton Government Relations who is working with the statewide League of Women Voters.

“We are not lobbying for the press; it’s just the public as a whole has a right to know what is happening. It’s ludicrous. As a former elected official, I realize how much more fun it is to meet without the press and public, but that’s not really the point, is it? It’s just the wrong direction.”

Right now, two or more public officials are forbidden from deliberating public policy without notifying the public. Chance meetings, like at church, are fine.

“Thousands and thousands of public officials have been able to work under the sunshine law for all these years without complaining,” Gibson said. “It is just going in the wrong direction when the public is clambering for more openness.”

Susan Kaestner, a Williamson County homemaker who is with the Tennessee Forum, a conservative group that urges government to operate openly, said she was not familiar with the current efforts. But in general, “you can’t really support a weakening of the sunshine law.”

“I certainly understand the frustrations at the county and the city level as far as making it cumbersome to do business. There is a certain elegance in our system of inefficiency, precisely because it is the inefficiency to allow the citizenry to be involved.”

It’s mind-boggling to consider how government would operate if this passes. Think of all the things that public bodies do. Appoint judges. Decide where roads are going, whether firefighters should get a raise, and how often to pick up your trash.

And if they later took an unrecorded voice vote, you would never know how each member voted.

Those are not extreme examples. The open government coalition found in 2005 there were 115 complaints filed about sunshine law violations over a two-year period.

Legislature exempt

Having no law at all would look a lot like the Tennessee General Assembly, which is exempt from the state's 1974 sunshine law. It has passed its own rules banning closed meetings, but state lawmakers routinely violate those rules. Proponents of the watered-down sunshine law argue what's good for the legislature is good for other government bodies. But two wrongs don't make a right.

Here are some real examples of lawmakers operating in the dark in recent years:

Knox County commissioners in 2007 held secret discussions in which they filled vacant elected positions. The Knoxville newspaper sued, and won. The appointments were reversed.

In 2005, the state Senate Finance Committee violated its own rules by meeting privately at Ellington Agricultural Center, to iron out amendments to the state budget. When the committee met publicly, it handled 139 budget amendments in less than 15 minutes.

The legislature's ethics bill was formed at a secret breakfast meeting. The Senate Ethics Committee closeted itself to debate conflict-of-interest charges against one of its own, former Sen. John Ford, D-Memphis.

Metro Council's budget and finance committee routinely met in secret up at least until 2004, the last time a meeting came to light. A councilwoman called it a "discussion for clarification," not a meeting.

In 2004, Bordeaux residents complained that a controversial construction and demolition landfill was allowed in their neighborhood with no public notice of meetings held by the Solid Waste Regional Board.

Two Metro Councilmen were caught meeting with Metro fire and emergency 911 dispatchers in 2003, abruptly adjourning the meeting when a reporter walked in.

Don't meddle with the sunshine law. The public's business should be conducted in the bright light of public scrutiny, not under cover of darkness.