

money in politics

a project of Ohio Citizen Action

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CITIES CAN TRUMP STATE OPEN GOVERNMENT LAWS, STUDY FINDS

State Sunshine Laws Lack Appeals Process

COLUMBUS — Because of Ohio’s home rule laws, municipalities are not equally subject to Ohio’s Open Meetings Act — the state’s law requiring citizen access to public meetings — according to a study released today by the Citizen Advocacy Center in celebration of Sunshine Week (March 15-21). In fact, Ohio’s courts have ruled that cities can determine how or if public meetings are held, and they have concluded that local laws prevail over state when in conflict.

The report also found that Ohio lacks firm deadlines when responding to document requests under the Ohio Public Records Law. Ohio law only mandates that requests be met “promptly” which invites delays and ambiguity.

“The fact that cities can overrule state open government laws seriously impinges on citizens’ rights,” said Catherine Turcer, Director of Ohio Citizen Action’s Money in Politics Project. “Regardless of their city’s charter, taxpayers should have the right to access municipal public meetings.”

The study found that efforts to obtain information from government agencies in Ohio are hampered by several factors, including:

- **Flaw in open government laws can lead to costly litigation.** If a group challenges a public body on violations of improperly withholding public information, there is no administrative appeals process to resolve the dispute, thus often forcing the group to take legal action.
- **State can recover attorney’s fee in Open Meetings Act litigation.** If a court deems a challenge to an Open Meetings Act violation frivolous, a public body can recover attorneys’ fees from the plaintiffs. This causes a substantial chilling effect since most of the public does not have legal training to understand what constitutes a frivolous lawsuit.



- **Entity charged with overseeing open government laws has no authority.** The Ohio Auditor of State's Open Government Unit provides open records and open meetings education. However, it does not have the authority to enforce the Open Meetings Act or Ohio Public Records Law. While the Attorney General's office provides education and it is possible to file an open records or meetings complaint on-line on the Attorney General's website, the Attorney General serves as the state's counsel.

"For our democracy to thrive and grow, we must have open government laws that are both strong and effective," said Terry Pastika, Executive Director for the Citizen Advocacy Center and co-author of the report. "Without good sunshine laws, the public can not fully participate in the democratic process, knowledgably discuss issues of public concern, make informed judgments about the actions of elected officials, or monitor government to make sure it's acting in their interest."

To remedy these problems, the Citizen Advocacy Center recommended that lawmakers reform Ohio Public Records Law and Open Meetings Laws to:

- Amend the Ohio constitution so the Ohio Meetings Act provisions apply to all municipalities.
- Implement a firm, statutory deadline to clarify when public documents must be produced.
- Allow for an administrative appeals process that must be responded to within a limited amount of time prior to filing litigation.
- Remove the provision allowing for states to recoup attorneys' fees.
- Give the Ohio Government Unit enforcement capacity, which includes the ability to file lawsuits and intervene in individual lawsuits.

"The 3,000 members of the League of Women Voters of Ohio urge the General Assembly to address ambiguities in the open-records law to ensure that private organizations which provide public services paid for by public funds are not exempt from public scrutiny, " said League of Women Voters of Ohio president Linda D. Lalley, in commenting on the report.

The Center reviewed Michigan, Ohio, Illinois, Wisconsin and Minnesota's Freedom of Information and Open Meetings Acts and found striking similarities between all states, including:

- Open government laws are sporadically enforced, which means public bodies are more likely to be unresponsive to records requests and employ exemptions to keep meetings closed.
- No state surveyed has a government office with statutory authority specifically created to oversee and enforce sunshine laws.
- State employees are not adequately trained to carry out open government policies and may be unintentionally violating the laws.
- Citizens may be able to attend meetings, but there are very few opportunities to participate.

The full report and state-by-state comparison charts are available online at www.citizenadvocacycenter.org or www.midwestdemocracynetwork.org.

The study, conducted by the Center and funded by The Joyce Foundation, is distributed by the Midwest Democracy Network, an alliance of political reform advocates who are working to strengthen democracy and build the capacity of the public to participate and affect government decision-making. Ohio Citizen Action and the League of Women Voters of Ohio are members of the Midwest Democracy Network.

