

SECOND REGULAR SESSION

HOUSE BILL NO. 1696

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEMBKE.

Read 1st time March 29, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4942L.011

AN ACT

To repeal sections 34.030 and 610.021, RSMo, and to enact in lieu thereof three new sections relating to disclosure of certain lessor ownership interests.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 34.030 and 610.021, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 34.030, 34.035, and 610.021, to read as follows:

34.030. 1. The commissioner of administration shall purchase all supplies for all
2 departments of the state, except as in this chapter otherwise provided. The commissioner of
3 administration shall negotiate all leases and purchase all lands, except for such departments as
4 derive their power to acquire lands from the constitution of the state.

5 **2. The commissioner of administration shall only enter into an agreement to lease**
6 **real property for a state agency if the lessor complies with the provisions of section 34.035.**

34.035. 1. As used in this section, the following terms mean:

2 **(1) "Commissioner", the commissioner of administration;**

3 **(2) "Lessor", any individual, firm, partnership, whether general, limited, or limited**
4 **liability, joint venture, association, corporation, whether general, business or limited**
5 **liability, estate, trust, business trust, receiver or trustee appointed by the state or federal**
6 **court, syndicate, or any other entity which leases real property to a state agency;**

7 **(3) "Ownership interest", ownership of any equity or beneficial interest in a lessor,**
8 **but not including any ownership of less than three percent of the outstanding shares of any**
9 **class of stock or partnership units;**

10 **(4) "State agency", any department, division, board, commission, office, or other**
11 **agency of the state, including any public university or public community college district.**

12 **2. A lessor shall disclose in writing to the commissioner of administration, prior to**

13 **January 1, 2005, the holders of all ownership interests in the lessor, including a list of all**
14 **current leases of real property to any state agency, the name and address of all holders of**
15 **any ownership interest in the lessor, and the percentage of such ownership interest.**
16 **Beginning January 1, 2005, no new lease, or renewal of an existing lease, of real property**
17 **by a state agency shall be entered into by the commissioner unless the lessor has disclosed**
18 **in writing to the commissioner the holders of all ownership interests in the lessor, including**
19 **a list of all current leases of real property to any state agency, the name and address of all**
20 **holders of any ownership interest in the lessor, and the percentage of such ownership**
21 **interest. Failure to comply with the provisions of this section shall be cause to invalidate**
22 **any lease of the lessor in which a state agency is the lessee.**

23 **3. The commissioner of administration shall submit an annual report, beginning**
24 **January 1, 2005, to the joint committee on capital improvement and leases oversight. The**
25 **report shall contain a list of all leases of real property by state agencies, including the**
26 **address of each property, the name and address of the lessor of each property, the name**
27 **and percentage of ownership of the holders of any ownership interest in the lessor, and the**
28 **cost per square foot of each lease.**

610.021. Except to the extent disclosure is otherwise required by law, a public
2 governmental body is authorized to close meetings, records and votes, to the extent they relate
3 to the following:

4 (1) Legal actions, causes of action or litigation involving a public governmental body
5 and any confidential or privileged communications between a public governmental body or its
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating
7 to legal actions, causes of action or litigation involving a public governmental body or any agent
8 or entity representing its interests or acting on its behalf or with its authority, including any
9 insurance company acting on behalf of a public government body as its insured, shall be made
10 public upon final disposition of the matter voted upon or upon the signing by the parties of the
11 settlement agreement, unless, prior to final disposition, the settlement agreement is ordered
12 closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the
13 action clearly outweighs the public policy considerations of section 610.011, however, the
14 amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed;
15 provided, however, in matters involving the exercise of the power of eminent domain, the vote
16 shall be announced or become public immediately following the action on the motion to
17 authorize institution of such a legal action. Legal work product shall be considered a closed
18 record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,

21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale
22 of real estate by a public governmental body, **including the disclosure of all ownership**
23 **interests of a lessor as required pursuant to section 34.035, RSMo**, shall be made public
24 within seventy-two hours after execution of the lease, purchase or sale of the real estate;

25 (3) Hiring, firing, disciplining or promoting of particular employees by a public
26 governmental body when personal information about the employee is discussed or recorded.
27 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,
28 promote or discipline an employee of a public governmental body must be made available with
29 a record of how each member voted to the public within seventy-two hours of the close of the
30 meeting where such action occurs; provided, however, that any employee so affected shall be
31 entitled to prompt notice of such decision during the seventy-two-hour period before such
32 decision is made available to the public. As used in this subdivision, the term "personal
33 information" means information relating to the performance or merit of individual employees;

34 (4) The state militia or national guard or any part thereof;

35 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
36 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
37 treatment;

38 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
39 records of individual test or examination scores; however, personally identifiable student records
40 maintained by public educational institutions shall be open for inspection by the parents,
41 guardian or other custodian of students under the age of eighteen years and by the parents,
42 guardian or other custodian and the student if the student is over the age of eighteen years;

43 (7) Testing and examination materials, before the test or examination is given or, if it
44 is to be given again, before so given again;

45 (8) Welfare cases of identifiable individuals;

46 (9) Preparation, including any discussions or work product, on behalf of a public
47 governmental body or its representatives for negotiations with employee groups;

48 (10) Software codes for electronic data processing and documentation thereof;

49 (11) Specifications for competitive bidding, until either the specifications are officially
50 approved by the public governmental body or the specifications are published for bid;

51 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals
52 and related documents or any documents related to a negotiated contract until a contract is
53 executed, or all proposals are rejected;

54 (13) Individually identifiable personnel records, performance ratings or records
55 pertaining to employees or applicants for employment, except that this exemption shall not apply
56 to the names, positions, salaries and lengths of service of officers and employees of public

57 agencies once they are employed as such;

58 (14) Records which are protected from disclosure by law;

59 (15) Meetings and public records relating to scientific and technological innovations in
60 which the owner has a proprietary interest;

61 (16) Records relating to municipal hotlines established for the reporting of abuse and
62 wrongdoing;

63 (17) Confidential or privileged communications between a public governmental body
64 and its auditor, including all auditor work product;

65 (18) A municipal utility receiving a public records request for information about existing
66 or proposed security systems and structural plans of real property owned or leased by the
67 municipal utility, the public disclosure of which would threaten public safety, shall within three
68 business days act upon such public records request, pursuant to section 610.023. Records related
69 to the procurement of or expenditures relating to security systems shall be open except to the
70 extent provided in this section;

71 (19) Existing or proposed security systems and structural plans of real property owned
72 or leased by a public governmental body, the public disclosure of which would threaten public
73 safety. Records related to the procurement of or expenditures relating to security systems shall
74 be open except to the extent provided in this section. When seeking to close information
75 pursuant to this exception, the public governmental body shall affirmatively state in writing that
76 disclosure would impair the public governmental body's ability to protect the security or safety
77 of persons or real property, and shall in the same writing state that the public interest in
78 nondisclosure outweighs the public interest in disclosure of the records. This exception shall
79 sunset on December 31, 2006;

80 (20) Records that identify the configuration of components or the operation of a
81 computer, computer system, computer network, or telecommunications network, and would
82 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
83 network, or telecommunications network of a public governmental body. This exception shall
84 not be used to limit or deny access to otherwise public records in a file, document, data file or
85 database containing public records. Records related to the procurement of or expenditures
86 relating to such computer, computer system, computer network, or telecommunications network,
87 including the amount of moneys paid by, or on behalf of, a public governmental body for such
88 computer, computer system, computer network, or telecommunications network shall be open
89 except to the extent provided in this section; and

90 (21) Credit card numbers, personal identification numbers, digital certificates, physical
91 and virtual keys, access codes or authorization codes that are used to protect the security of
92 electronic transactions between a public governmental body and a person or entity doing business

93 with a public governmental body. Nothing in this section shall be deemed to close the record
94 of a person or entity using a credit card held in the name of a public governmental body or any
95 record of a transaction made by a person using a credit card or other method of payment for
96 which reimbursement is made by a public governmental body.