SECOND REGULAR SESSION

HOUSE BILL NO. 1720

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER.

4348H.011 DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to the sunshine law.

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

Section A. Section 610.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.021, to read as follows:

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

1. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately.

EXPLANATION — Matter enclosed in bold-faced brackets [themselves] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.
following the action on the motion to authorize institution of such a legal action. Legal work
product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where
public knowledge of the transaction might adversely affect the legal consideration therefor.
However, any minutes, vote or public record approving a contract relating to the leasing,
purchase or sale of real estate by a public governmental body shall be made public upon
execution of the lease, purchase or sale of the real estate;

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

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

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

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

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

(8) Welfare cases of identifiable individuals;

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

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

(11) Specifications for competitive bidding, until either the specifications are
officially approved by the public governmental body or the specifications are published for
bid;
(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

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

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

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

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(18) (a) Security measures, global positioning system (GPS) data, investigative information, or investigative or surveillance techniques of any public agency responsible for law enforcement or public safety that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(b) Any information or data provided to a tip line for the purpose of safety or security at an educational institution that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(c) Any information contained in any suspicious activity report provided to law enforcement that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(d) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(20) The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;

(21) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;

(22) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body;

(23) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual
property or perform sponsored research and which contains sales projections or other
business plan information the disclosure of which may endanger the competitiveness of a
business;
(24) Records relating to foster home or kinship placements of children in foster care
under section 210.498; [and]
(25) Individually identifiable customer usage and billing records for customers of a
municipally owned utility, unless the records are requested by the customer or authorized for
release by the customer, except that a municipally owned utility shall make available to the
public the customer's name, billing address, location of service, and dates of service provided
for any commercial service account;
(26) Any portion of a record that contains individually identifiable information,
including email addresses and telephone numbers submitted to a public governmental
body by individuals or entities for the sole purpose of receiving electronic or other
communications limited to newsletters, notifications, advisories, alerts, and periodic
reports;
(27) Any portion of a record that may be used to individually identify a
constituent of the public governmental body. As used in this subdivision, "constituent"
shall mean any person who is a resident within the boundaries of the public
governmental body, any person who owns real property within the boundaries of the
public governmental body, or any person who owns an interest in a business entity
operating within the boundaries of the public governmental body. The term
"constituent" shall not include a person who is registered as a lobbyist or a lobbyist
principal, as such terms are defined in section 105.470, or a public official, regardless of
whether such person otherwise meets the definition of "constituent". As used in this
subdivision, the term "public official" shall mean any statewide elected official or any
person holding elective office of any political subdivision as well as an employee of such
elected official when such employee is acting in an official capacity. Nothing in this
subdivision shall authorize the closure of a record that has been offered in a public
meeting of the public governmental body, or any committee thereof;
(28) Any portion of a record held by a political subdivision that contains
individually identifiable information of a minor, or the minor’s parent or legal
 guardian; and
(29) Any record retained in the office of a member of the general assembly, an
employee of either house of the general assembly, or an employee of a caucus of either
the majority or minority party of either house that contains information regarding
proposed legislation or the legislative process; however, nothing in this subdivision shall
allow the closure of a record that has been offered in a public meeting of a house of the
general assembly, or any committee thereof, nor any record addressed to or from, in
whole or in part, a lobbyist or a lobbyist principal, as such terms are defined in section
105.470.