

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 145 & 59

103RD GENERAL ASSEMBLY

0310S.03C

KRISTINA MARTIN, Secretary

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Section A. Section 610.021, RSMo, is repealed and one new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

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

5 (1) Legal actions, causes of action or litigation
6 involving a public governmental body and any confidential or
7 privileged communications between a public governmental body
8 or its representatives and its attorneys. However, any
9 minutes, vote or settlement agreement relating to legal
10 actions, causes of action or litigation involving a public
11 governmental body or any agent or entity representing its
12 interests or acting on its behalf or with its authority,
13 including any insurance company acting on behalf of a public
14 government body as its insured, shall be made public upon
15 final disposition of the matter voted upon or upon the
16 signing by the parties of the settlement agreement, unless,

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted
and is intended to be omitted in the law.**

17 prior to final disposition, the settlement agreement is
18 ordered closed by a court after a written finding that the
19 adverse impact to a plaintiff or plaintiffs to the action
20 clearly outweighs the public policy considerations of
21 section 610.011, however, the amount of any moneys paid by,
22 or on behalf of, the public governmental body shall be
23 disclosed; provided, however, in matters involving the
24 exercise of the power of eminent domain, the vote shall be
25 announced or become public immediately following the action
26 on the motion to authorize institution of such a legal
27 action. Legal work product shall be considered a closed
28 record;

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

37 (3) Hiring, firing, disciplining or promoting of
38 particular employees by a public governmental body when
39 personal information about the employee is discussed or
40 recorded. However, any vote on a final decision, when taken
41 by a public governmental body, to hire, fire, promote or
42 discipline an employee of a public governmental body shall
43 be made available with a record of how each member voted to
44 the public within seventy-two hours of the close of the
45 meeting where such action occurs; provided, however, that
46 any employee so affected shall be entitled to prompt notice
47 of such decision during the seventy-two-hour period before
48 such decision is made available to the public. As used in

49 this subdivision, the term "personal information" means
50 information relating to the performance or merit of
51 individual employees;

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

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

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

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

70 (8) Welfare cases of identifiable individuals;

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

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

76 (11) Specifications for competitive bidding, until
77 either the specifications are officially approved by the
78 public governmental body or the specifications are published
79 for bid;

80 (12) Sealed bids and related documents, until the bids
81 are opened; and sealed proposals and related documents or
82 any documents related to a negotiated contract until a
83 contract is executed, or all proposals are rejected;

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

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

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

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

101 (17) Records relating to reports of allegations of
102 improper governmental activities under section 29.221;

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

108 (19) (a) Security measures, global positioning system
109 (GPS) data, investigative information, or investigative or
110 surveillance techniques of any public agency responsible for
111 law enforcement or public safety that, if disclosed, has the

112 potential to endanger the health or safety of an individual
113 or the public.

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

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

122 (d) Operational guidelines, policies and specific
123 response plans developed, adopted, or maintained by any
124 public agency responsible for law enforcement, public
125 safety, first response, or public health for use in
126 responding to or preventing any critical incident which has
127 the potential to endanger individual or public safety or
128 health. Financial records related to the procurement of or
129 expenditures relating to operational guidelines, policies or
130 plans purchased with public funds shall be open. When
131 seeking to close information pursuant to this exception, the
132 public governmental body shall affirmatively state in
133 writing that disclosure would impair the public governmental
134 body's ability to protect the security or safety of persons
135 or real property, and shall in the same writing state that
136 the public interest in nondisclosure outweighs the public
137 interest in disclosure of the records;

138 (20) Existing or proposed security systems and
139 structural plans of real property owned or leased by a
140 public governmental body, and information that is
141 voluntarily submitted by a nonpublic entity owning or
142 operating an infrastructure to any public governmental body
143 for use by that body to devise plans for protection of that

144 infrastructure, the public disclosure of which would
145 threaten public safety:

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

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

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

163 (21) The portion of a record that identifies security
164 systems or access codes or authorization codes for security
165 systems of real property;

166 (22) Records that identify the configuration of
167 components or the operation of a computer, computer system,
168 computer network, or telecommunications network, and would
169 allow unauthorized access to or unlawful disruption of a
170 computer, computer system, computer network, or
171 telecommunications network of a public governmental body.
172 This exception shall not be used to limit or deny access to
173 otherwise public records in a file, document, data file or
174 database containing public records. Records related to the
175 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;

(23) 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;

(24) 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;

(25) Records relating to foster home or kinship placements of children in foster care under section 210.498; [and]

(26) Individually identifiable customer usage and billing records for customers of a municipally owned utility **or a utility operated by any political subdivision created by Article VI, Section 30(a) of the Constitution of Missouri**, unless the records are requested by the customer or authorized for release by the customer, except that a

208 municipally owned utility or a utility operated by any
209 political subdivision created by Article VI, Section 30(a)
210 of the Constitution of Missouri shall make available to the
211 public the customer's name, billing address, location of
212 service, and dates of service provided for any commercial
213 service account;

214 (27) Any portion of a record that contains
215 individually identifiable information of a minor under
216 eighteen years of age held by a public governmental body, if
217 such public governmental body is a city, town, village, or
218 park board except when such records are requested by the
219 division of labor standards within the department of labor
220 and industrial relations for the purpose of enforcing
221 chapter 294;

222 (28) Individually identifiable customer information
223 for visitors who make a camping, lodging, or shelter
224 reservation for a county park, municipal park, or Missouri
225 state park or state historic site unless the records are
226 requested by the visitor or authorized for release by the
227 visitor, and except that this exemption shall not apply to
228 the municipality of residence and the zip code of residence
229 of the visitor; and

230 (29) Records to protect the specific location of a
231 plant or animal species considered endangered, threatened,
232 critically imperiled, imperiled, or vulnerable when the
233 known location may cause the species to be at an increased
234 risk of peril.

✓