

SECOND REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 953

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCOTT.

Read 1st time January 15, 2008, and ordered printed.

Read 2nd time January 16, 2008, and referred to the Committee on Financial and Governmental Organizations and Elections.

Reported from the Committee February 14, 2008, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up February 28, 2008. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

4303S.01P

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## AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to authorization to close certain records.

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*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Section A. Section 610.021, RSMo, is repealed and one new section  
2 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  
2 public governmental body is authorized to close meetings, records and votes, to  
3 the extent they relate to the following:

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

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

15 outweighs the public policy considerations of section 610.011, however, the  
16 amount of any moneys paid by, or on behalf of, the public governmental body  
17 shall be disclosed; provided, however, in matters involving the exercise of the  
18 power of eminent domain, the vote shall be announced or become public  
19 immediately following the action on the motion to authorize institution of such  
20 a legal action. Legal work product shall be considered a closed record;

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

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

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

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

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

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

- 51 (8) Welfare cases of identifiable individuals;
- 52 (9) Preparation, including any discussions or work product, on behalf of  
53 a public governmental body or its representatives for negotiations with employee  
54 groups;
- 55 (10) Software codes for electronic data processing and documentation  
56 thereof;
- 57 (11) Specifications for competitive bidding, until either the specifications  
58 are officially approved by the public governmental body or the specifications are  
59 published for bid;
- 60 (12) Sealed bids and related documents, until the bids are opened; and  
61 sealed proposals and related documents or any documents related to a negotiated  
62 contract until a contract is executed, or all proposals are rejected;
- 63 (13) Individually identifiable personnel records, performance ratings or  
64 records pertaining to employees or applicants for employment, except that this  
65 exemption shall not apply to the names, positions, salaries and lengths of service  
66 of officers and employees of public agencies once they are employed as such, and  
67 the names of private sources donating or contributing money to the salary of a  
68 chancellor or president at all public colleges and universities in the state of  
69 Missouri and the amount of money contributed by the source;
- 70 (14) Records which are protected from disclosure by law;
- 71 (15) Meetings and public records relating to scientific and technological  
72 innovations in which the owner has a proprietary interest;
- 73 (16) Records relating to municipal hotlines established for the reporting  
74 of abuse and wrongdoing;
- 75 (17) Confidential or privileged communications between a public  
76 governmental body and its auditor, including all auditor work product; however,  
77 all final audit reports issued by the auditor are to be considered open records  
78 pursuant to this chapter;
- 79 (18) Operational guidelines and policies developed, adopted, or maintained  
80 by any public agency responsible for law enforcement, public safety, first  
81 response, or public health for use in responding to or preventing any critical  
82 incident which is or appears to be terrorist in nature and which has the potential  
83 to endanger individual or public safety or health. Nothing in this exception shall  
84 be deemed to close information regarding expenditures, purchases, or contracts  
85 made by an agency in implementing these guidelines or policies. When seeking  
86 to close information pursuant to this exception, the agency shall affirmatively

87 state in writing that disclosure would impair its ability to protect the safety or  
88 health of persons, and shall in the same writing state that the public interest in  
89 nondisclosure outweighs the public interest in disclosure of the records. This  
90 exception shall sunset on December 31, [2008] **2012**;

91 (19) Existing or proposed security systems and structural plans of real  
92 property owned or leased by a public governmental body, and information that is  
93 voluntarily submitted by a nonpublic entity owning or operating an infrastructure  
94 to any public governmental body for use by that body to devise plans for  
95 protection of that infrastructure, the public disclosure of which would threaten  
96 public safety:

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

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

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

110 (d) This exception shall sunset on December 31, [2008] **2012**;

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

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

Unofficial ✓

Bill

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