

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE SUBSTITUTE FOR

# SENATE BILL NO. 213

## 100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Offered March 5, 2019.

Senate Substitute adopted March 13, 2019.

Taken up for Perfection March 13, 2019. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

1276S.06P

### AN ACT

To repeal section 105.483, RSMo, and to enact in lieu thereof five new sections relating to the nonpartisan state demographer, with penalty provisions.

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

Section A. Section 105.483, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 105.483, 127.010, 127.020, 127.030, and 127.040, to read as follows:

105.483. Each of the following persons shall be required to file a financial interest statement:

(1) Associate circuit judges, circuit court judges, judges of the courts of appeals and of the supreme court, and candidates for any such office;

(2) Persons holding an elective office of the state, whether by election or appointment, and candidates for such elective office, except those running for or serving as county committee members for a political party pursuant to section 115.609 or section 115.611;

(3) The principal administrative or deputy officers or assistants serving the governor, lieutenant governor, secretary of state, state treasurer, state auditor and attorney general, which officers shall be designated by the respective elected state official;

(4) The members of each board or commission and the chief executive officer of each public entity created pursuant to the constitution or interstate compact or agreement and the members of each board of regents or curators and the chancellor or president of each state institution of higher education;

17 (5) The director and each assistant deputy director and the general  
18 counsel and the chief purchasing officer of each department, division and agency  
19 of state government;

20 (6) Any official or employee of the state authorized by law to promulgate  
21 rules and regulations or authorized by law to vote on the adoption of rules and  
22 regulations;

23 (7) Any member of a board or commission created by interstate compact  
24 or agreement, including the executive director and any Missouri resident who is  
25 a member of the bi-state development agency created pursuant to sections 70.370  
26 to 70.440;

27 (8) Any board member of a metropolitan sewer district authorized under  
28 Section 30(a) of Article VI of the State Constitution;

29 (9) Any member of a commission appointed or operating pursuant to  
30 sections 64.650 to 64.950, sections 67.650 to 67.658, or sections 70.840 to 70.859;

31 (10) The members, the chief executive officer and the chief purchasing  
32 officer of each board or commission which enters into or approves contracts for  
33 the expenditure of state funds;

34 (11) Each elected official, candidate for elective office, the chief  
35 administrative officer, the chief purchasing officer and the general counsel, if  
36 employed full time, of each political subdivision with an annual operating budget  
37 in excess of one million dollars, and each official or employee of a political  
38 subdivision who is authorized by the governing body of the political subdivision  
39 to promulgate rules and regulations with the force of law or to vote on the  
40 adoption of rules and regulations with the force of law; unless the political  
41 subdivision adopts an ordinance, order or resolution pursuant to subsection 4 of  
42 section 105.485;

43 (12) Any person who is designated as a decision-making public servant by  
44 any of the officials or entities listed in subdivision (6) of section 105.450;

45 **(13) Any person selected by the state auditor as an applicant to**  
46 **be considered by the majority leader and minority leader of the senate**  
47 **for the post of nonpartisan state demographer pursuant to article III,**  
48 **section 3 of the Missouri Constitution.**

**127.010. For purposes of this chapter, the following terms and**  
2 **phrases shall mean:**

3 **(1) "Demographer" or "nonpartisan state demographer", the**  
4 **nonpartisan state demographer appointed pursuant to article III,**

5 section 3 of the Missouri Constitution;

6 (2) "Interested party", any lobbyist, lobbyist principal, paid  
7 political consultant, state representative, state senator, or a spouse,  
8 dependent child, employee, or staff member of any such person or any  
9 organization having the primary or incidental purpose of influencing  
10 the redistricting process;

11 (3) "Lobbyist", shall have the same meaning as in section 105.470;

12 (4) "Lobbyist principal", shall have the same meaning as in  
13 section 105.470;

14 (5) "Redistricting process", the process of preparing and drawing  
15 state legislative districts pursuant to article III of the Missouri  
16 Constitution;

17 (6) "Redistricting public comment portal", the website established  
18 pursuant to section 127.030 for the purpose of allowing the nonpartisan  
19 state demographer to publicly receive comments, records, documents,  
20 maps, data files, communication, or information of any kind relating to  
21 the redistricting process;

22 (7) "Redistricting records", any comments, records, documents,  
23 maps, or information of any kind received by the demographer from a  
24 person or entity that is not the demographer and any comments,  
25 records, documents, maps, data files, communication, or information  
26 created by the demographer during the term of the demographer as  
27 part of the redistricting process.

127.020. 1. During the term of the nonpartisan state  
2 demographer, the demographer shall not:

3 (1) Accept directly or indirectly from any interested party a gift  
4 of any tangible or intangible item, service, or thing of value;

5 (2) Accept directly or indirectly from any source other than the  
6 state of Missouri any compensation, grants, stipends, retainers, or  
7 remuneration of any kind in connection with the redistricting process,  
8 including from any political campaign, political party committee,  
9 continuing committee, federal political action committee, or  
10 organization exempt from taxation pursuant to section 501(c) of the  
11 Internal Revenue Code of 1986, as amended;

12 (3) Employ, contract with, or delegate authority to, directly or  
13 indirectly, any other person or entity, including but not limited to  
14 counsel, to perform any work or analysis for the redistricting process,

15 provided the demographer may consult with or request opinions from  
16 the office of attorney general. The demographer may additionally  
17 retain reasonably necessary technical and clerical assistance from the  
18 office of administration. All such legal advice and technical and  
19 clerical assistance shall be disclosed pursuant to section 127.030; or

20 (4) Engage in written or oral communication regarding the  
21 redistricting process with any person or entity seeking to influence  
22 such process, provided that comments, records, documents, maps, data  
23 files, communication, and information of any kind may be received  
24 pursuant to section 127.030.

25 2. During the term of the demographer, the spouse and  
26 dependent children of such person shall not accept directly or  
27 indirectly from any interested party a gift of any tangible or intangible  
28 item, service, or thing of value.

29 3. The demographer shall be subject to all provisions of sections  
30 105.452, 105.453, 105.454, and 105.456.

31 4. No person appointed to the post of demographer shall act,  
32 serve, or register as a lobbyist until two years after the expiration of  
33 the term to which he or she was appointed.

34 5. Any person selected by the state auditor as an applicant to be  
35 considered by the majority leader and minority leader of the senate for  
36 the post of demographer shall file with the Missouri ethics commission  
37 and the secretary of the senate the financial interest statement  
38 required by section 105.485 no later than fourteen days after the state  
39 auditor has delivered the list of applicants to the majority leader and  
40 minority leader of the senate. In filing such statement, the person shall  
41 additionally include the following information with respect to himself  
42 or herself and his or her spouse and dependent children:

43 (1) The name and address of each organization exempt from  
44 taxation pursuant to Sections 501(c) or 527 of the Internal Revenue  
45 Code of 1986, as amended, in which such person was an officer,  
46 director, employee, trustee, analyst, advisor, or fellow at any time  
47 during the two years preceding selection as an applicant to be  
48 considered as demographer, and for each such organization, a general  
49 description of the nature and purpose of the organization;

50 (2) The name and address of each organization exempt from  
51 taxation pursuant to Sections 501(c) or 527 of the Internal Revenue

52 Code of 1986, as amended, from which such person received a grant or  
53 payment of any kind during the two years preceding selection as an  
54 applicant to be considered as demographer, and for each such  
55 organization, a general description of the nature and purpose of the  
56 organization.

127.030. 1. The nonpartisan state demographer shall establish a  
2 website, to be known as the "Redistricting Public Comment Portal", for  
3 the purpose of allowing the public acceptance of comments, records,  
4 documents, maps, data files, communication, or information of any kind  
5 relating to the redistricting process.

6 2. The nonpartisan state demographer shall accept comments,  
7 records, documents, maps, data files, communication, and information  
8 of any kind relating to the redistricting process solely through the  
9 redistricting public comment portal.

10 3. Any comments, records, documents, maps, data files,  
11 communication, or information of any kind submitted through the  
12 redistricting public comment portal by any person or entity shall be  
13 accompanied by a disclosure form that indicates whether:

14 (1) The person or entity making the submission was responsible  
15 in whole or in part for such submission; or

16 (2) A person or entity other than the person or entity making the  
17 submission contributed money that was intended to fund the  
18 preparation of the submission and, if so, the disclosure form shall  
19 additionally identify each such person or entity.

20 4. (1) All redistricting records shall be considered the property  
21 of the state and shall not be mutilated, destroyed, transferred, removed,  
22 or otherwise damaged or disposed of, in whole or in part, except as  
23 provided in sections 109.200 to 109.310.

24 (2) Any redistricting record shall be considered a "public record"  
25 as that term is defined in section 610.010.

26 (3) Upon the expiration of the term to which the demographer  
27 was selected, all redistricting records shall be deposited in the state  
28 records center and archives and shall be managed pursuant to sections  
29 109.200 to 109.310.

127.040. 1. When it appears to the attorney general that a person  
2 has violated any provision of this chapter or when he or she believes  
3 it to be in the public interest that an investigation should be made to

4 ascertain whether a person in fact has violated this chapter, he or she  
5 may execute in writing and cause to be served upon any person who is  
6 believed to have information, documentary material, or physical  
7 evidence relevant to the alleged or suspected violation, a civil  
8 investigative demand requiring such person to appear and testify, or  
9 to produce relevant documentary material or physical evidence or  
10 examination, at such reasonable time and place as may be stated in the  
11 civil investigative demand. Service of any civil investigative demand,  
12 notice, or subpoena may be made by any person authorized by law to  
13 serve process or by any duly authorized employee of the attorney  
14 general.

15 2. Each civil investigative demand shall:

16 (1) State the statute and section thereof, the alleged violation of  
17 which is under investigation, and the general subject matter of the  
18 investigation;

19 (2) Describe the class or classes of information, documentary  
20 material, or physical evidence to be produced thereunder with  
21 reasonable specificity so as fairly to indicate the material demanded;

22 (3) Prescribe a return date by which the information,  
23 documentary material, or physical evidence is to be produced; and

24 (4) Identify the members of the attorney general's staff to whom  
25 the information, documentary material, or physical evidence requested  
26 is to be made available.

27 3. No civil investigative demand shall:

28 (1) Contain any requirement that would be unreasonable or  
29 improper if contained in a subpoena duces tecum issued by a court of  
30 this state; or

31 (2) Require the disclosure of any documentary material that  
32 would be privileged or that, for any other reason, could not be required  
33 by a subpoena duces tecum issued by a court of this state.

34 4. Service of any civil investigative demand, notice, or subpoena  
35 may be made by:

36 (1) Delivering a duly executed copy thereof to the person to be  
37 served, or to a partner or any officer or agent authorized by  
38 appointment or by law to receive service of process on behalf of such  
39 person;

40 (2) Delivering a duly executed copy thereof to the principal place

41 of business or the residence in this state of the person to be served;

42 (3) Mailing by registered or certified mail a duly executed copy  
43 thereof, addressed to the person to be served, at the principal place of  
44 business or the residence in this state or, if such person has no place  
45 of business or residence in this state, to his or her principal office or  
46 place of business or his or her residence; or

47 (4) The mailing thereof by registered or certified mail,  
48 requesting a return receipt signed by the addressee only, to the last  
49 known place of business, residence, or abode within or without this  
50 state of such person for whom the same is intended.

51 5. Documentary material, information, or physical evidence  
52 demanded pursuant to the provisions of this section shall be produced  
53 during normal business hours at the principal office or place of  
54 business of the person served, or at such other times and places as may  
55 be agreed upon by the person served and the attorney general.

56 6. A person upon whom a civil investigative demand is served  
57 pursuant to this section shall comply with the terms thereof unless  
58 otherwise provided by an order of a court. Any person who, with intent  
59 to avoid, evade, or prevent compliance, in whole or in part, with any  
60 civil investigative demand issued pursuant to this section, removes  
61 from any place, conceals, withholds, or destroys, mutilates, alters, or by  
62 any other means falsifies any information, documentary material, or  
63 physical evidence in the possession, custody, or control of any person,  
64 that is the subject of any such civil investigative demand shall be guilty  
65 of a class A misdemeanor. The attorney general shall have original  
66 jurisdiction to enforce the provisions of this section.

67 7. (1) Whenever any person fails to comply with any civil  
68 investigative demand duly served upon him or her pursuant to this  
69 section or whenever satisfactory copying or reproduction of any such  
70 material cannot be done and such person refuses to surrender such  
71 material, the attorney general, through such officers or attorneys as he  
72 or she may designate, may file, in the trial court of general jurisdiction  
73 of a county or judicial district in which such person resides, is found,  
74 or transacts business, and serve upon such person a petition for an  
75 order of such court for the enforcement of such civil investigative  
76 demand.

77 (2) Notwithstanding subdivision (1) of this subsection to the

78 contrary, if a person transacts business in more than one county or  
79 judicial district, a petition shall be filed in the county or judicial  
80 district in which such person maintains his or her principal place of  
81 business, or in such other county or judicial district as may be agreed  
82 upon by the parties to such petition.

83 (3) Whenever any petition is filed in the trial court of general  
84 jurisdiction of a county or judicial district pursuant to this section,  
85 such court shall have jurisdiction to hear and determine the matter so  
86 presented, and to enter such order or orders as may be required to  
87 carry into effect the provisions of this chapter. Any final order so  
88 entered shall be subject to appeal to the supreme court. Any  
89 disobedience of any final order entered pursuant to this section by any  
90 court shall be punished as contempt.

91 8. (1) Whenever it appears to the attorney general that a person  
92 has violated, is violating, or is about to violate any provision of this  
93 chapter, he or she may issue and cause to be served upon such person,  
94 and any other person or persons concerned with or who, in any way,  
95 have participated, are participating, or are about to participate in such  
96 violation, an order prohibiting such person or persons from engaging  
97 or continuing to engage in such unlawful act.

98 (2) Prior to issuing an order pursuant to subdivision (1) of this  
99 subsection, the attorney general shall notify each person who will be  
100 subject to such order of:

101 (a) The statutory section which such person is alleged to have  
102 violated, be in the process of violating, or be about to violate; and

103 (b) The nature of the alleged violation.

104 (3) The person to whom such notice is given shall have two  
105 business days from the receipt of such notice to file an answer to such  
106 notice with the attorney general before the order authorized by this  
107 subsection may be issued.

108 9. All orders issued by the attorney general pursuant to  
109 subsection 8 of this section shall be signed by the attorney general or,  
110 in his or her absence, a duly authorized representative, and shall be  
111 served in the manner provided in subsection 4 of this section and shall  
112 expire of their own force ten days after being served.

113 10. Any person who has been duly served with an order issued  
114 pursuant to subsection 8 of this section and who willfully and



115 knowingly violates any provision of such order while such order  
116 remains in effect, either as originally issued or as modified, shall be  
117 guilty of a class E felony. The attorney general shall have original  
118 jurisdiction to commence all criminal actions necessary to enforce this  
119 section.

120       11. (1) Whenever it appears to the attorney general that a person  
121 has engaged in, is engaging in, or is about to engage in any act  
122 prohibited by this chapter, the attorney general may seek and obtain,  
123 in an action in a circuit court, an injunction prohibiting such person  
124 from continuing such act, or engaging therein, or doing anything in  
125 furtherance thereof.

126       (2) In any action under subsection 1 of this section, and pursuant  
127 to the provisions of the Missouri Rules of Civil Procedure, the attorney  
128 general may seek and obtain temporary restraining orders, preliminary  
129 injunctions, temporary receivers, and the sequestering of any funds or  
130 accounts if the court finds that funds or property may be hidden or  
131 removed from the state or that such orders or injunctions are otherwise  
132 necessary.

133       (3) If the court finds that the person has engaged in, is engaging  
134 in, or is about to engage in any act prohibited by this chapter, it may  
135 make such orders or judgments as may be necessary to prevent such  
136 person from employing or continuing to employ, or to prevent the  
137 recurrence of, any acts prohibited by this chapter.

138       (4) The court, in its discretion, may appoint a receiver to ensure  
139 the conformance to any orders issued pursuant to subsection 3 of this  
140 section.

141       (5) The court may award to the state a civil penalty of not more  
142 than one thousand dollars per violation, provided that if the person  
143 who would be liable for such penalty shows, by a preponderance of the  
144 evidence, that a violation resulted from a bona fide error  
145 notwithstanding the maintenance of procedures reasonably adopted to  
146 avoid the error, no civil penalties shall be imposed.

147       (6) Any action pursuant to this subsection may be brought in the  
148 county in which the defendant resides, in which the violation alleged  
149 to have been committed occurred, or in which the defendant has his or  
150 her principal place of business.

151       (7) The attorney general may enter into consent judgments or

152 **consent injunctions with or without admissions of violations of this**  
153 **chapter. Violation of any such consent judgment or consent injunction**  
154 **shall be subject to a civil penalty of not more than five thousand dollars**  
155 **per violation, to be paid to the state.**

✓

Unofficial

Bill

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