

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR

SENATE BILL NO. 213

100TH GENERAL ASSEMBLY

2019

1276S.06T

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Section A. Section 105.483, RSMo, is repealed and five new sections
2 enacted in lieu thereof, to be known as sections 105.483, 127.010, 127.020,
3 127.030, and 127.040, to read as follows:

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

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

5 (2) Persons holding an elective office of the state, whether by election or
6 appointment, and candidates for such elective office, except those running for or
7 serving as county committee members for a political party pursuant to section
8 115.609 or section 115.611;

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

13 (4) The members of each board or commission and the chief executive
14 officer of each public entity created pursuant to the constitution or interstate
15 compact or agreement and the members of each board of regents or curators and
16 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

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