

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 362

101ST GENERAL ASSEMBLY

1254S.03C

ADRIANE D. CROUSE, 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Section A. Section 610.021, RSMo, is repealed and one new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) Confidential or privileged communications between
102 a public governmental body and its auditor, including all
103 auditor work product; however, all final audit reports
104 issued by the auditor are to be considered open records
105 pursuant to this chapter;

106 (18) Operational guidelines, policies and specific
107 response plans developed, adopted, or maintained by any
108 public agency responsible for law enforcement, public
109 safety, first response, or public health for use in
110 responding to or preventing any critical incident which is
111 or appears to be terrorist in nature and which has the

112 potential to endanger individual or public safety or
113 health. Financial records related to the procurement of or
114 expenditures relating to operational guidelines, policies or
115 plans purchased with public funds shall be open. When
116 seeking to close information pursuant to this exception, the
117 public governmental body shall affirmatively state in
118 writing that disclosure would impair the public governmental
119 body's ability to protect the security or safety of persons
120 or real property, and shall in the same writing state that
121 the public interest in nondisclosure outweighs the public
122 interest in disclosure of the records;

123 (19) Existing or proposed security systems **or**
124 **procedures** and structural plans of real property owned or
125 leased by a public governmental body **including, but not**
126 **limited to, evacuation and lockdown procedures for the**
127 **buildings on such real property**, and information that is
128 voluntarily submitted by a nonpublic entity owning or
129 operating an infrastructure to any public governmental body
130 for use by that body to devise plans for protection of that
131 infrastructure **including, but not limited to, software or**
132 **surveillance companies that secure access to such buildings**,
133 the public disclosure of which would threaten public safety:

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

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

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

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

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

169 (22) Credit card numbers, personal identification
170 numbers, digital certificates, physical and virtual keys,
171 access codes or authorization codes that are used to protect
172 the security of electronic transactions between a public
173 governmental body and a person or entity doing business with
174 a public governmental body. Nothing in this section shall
175 be deemed to close the record of a person or entity using a

176 credit card held in the name of a public governmental body
177 or any record of a transaction made by a person using a
178 credit card or other method of payment for which
179 reimbursement is made by a public governmental body;

180 (23) Records submitted by an individual, corporation,
181 or other business entity to a public institution of higher
182 education in connection with a proposal to license
183 intellectual property or perform sponsored research and
184 which contains sales projections or other business plan
185 information the disclosure of which may endanger the
186 competitiveness of a business; [and]

187 (24) Records relating to foster home or kinship
188 placements of children in foster care under section 210.498;

189 (25) **Email addresses and telephone numbers submitted**
190 **to a public governmental body by individuals or entities for**
191 **the sole purpose of receiving electronic or other**
192 **communications limited to newsletters, notifications,**
193 **advisories, alerts, and periodic reports; and**

194 (26) **Individually identifiable customer usage and**
195 **billing records for customers of a municipally owned utility**
196 **unless the records are requested by the customer or**
197 **authorized for release by the customer, except that a**
198 **municipally owned utility shall make available to the public**
199 **the customer's name, billing address, location of service,**
200 **and dates of service provided for any commercial service**
201 **account.**

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