

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 657

101ST GENERAL ASSEMBLY

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1465S.02C

ADRIANE D. CROUSE, Secretary

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## AN ACT

To repeal sections 610.020 and 610.021, RSMo, and to enact in lieu thereof two new sections relating to the sunshine law, with existing penalty provisions.

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

Section A. Sections 610.020 and 610.021, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 610.020 and 610.021, to read as follows:

610.020. 1. All public governmental bodies shall give  
2 notice of the time, date, and place of each meeting, and its  
3 tentative agenda, in a manner reasonably calculated to  
4 advise the public of the matters to be considered, and if  
5 the meeting will be conducted by telephone or other  
6 electronic means, the notice of the meeting shall identify  
7 the mode by which the meeting will be conducted and the  
8 designated location where the public may observe and attend  
9 the meeting. If a public body plans to meet by internet  
10 chat, internet message board, or other computer link, it  
11 shall post a notice of the meeting on its website in  
12 addition to its principal office and shall notify the public  
13 how to access that meeting. Reasonable notice shall include  
14 making available copies of the notice to any representative  
15 of the news media who requests notice of meetings of a  
16 particular public governmental body concurrent with the  
17 notice being made available to the members of the particular

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

18 governmental body and posting the notice on a bulletin board  
19 or other prominent place which is easily accessible to the  
20 public and clearly designated for that purpose at the  
21 principal office of the body holding the meeting, or if no  
22 such office exists, at the building in which the meeting is  
23 to be held.

24         2. Notice conforming with all of the requirements of  
25 subsection 1 of this section shall be given at least twenty-  
26 four hours, exclusive of weekends and holidays when the  
27 facility is closed, prior to the commencement of any meeting  
28 of a governmental body unless for good cause such notice is  
29 impossible or impractical, in which case as much notice as  
30 is reasonably possible shall be given. Each meeting shall  
31 be held at a place reasonably accessible to the public and  
32 of sufficient size to accommodate the anticipated attendance  
33 by members of the public, and at a time reasonably  
34 convenient to the public, unless for good cause such a place  
35 or time is impossible or impractical. Every reasonable  
36 effort shall be made to grant special access to the meeting  
37 to handicapped or disabled individuals.

38         3. A public body shall allow for the recording by  
39 audiotape, videotape, or other electronic means of any open  
40 meeting. A public body may establish guidelines regarding  
41 the manner in which such recording is conducted so as to  
42 minimize disruption to the meeting. No audio recording of  
43 any meeting, record, or vote closed pursuant to the  
44 provisions of section 610.021 shall be permitted without  
45 permission of the public body; any person who violates this  
46 provision shall be guilty of a class C misdemeanor.

47         4. When it is necessary to hold a meeting on less than  
48 twenty-four hours' notice, [or at a place that is not  
49 reasonably accessible to the public] **or when the meeting**

50 **will be conducted exclusively electronically,** or at a time  
51 that is not reasonably convenient to the public, the nature  
52 of the good cause justifying that departure from the normal  
53 requirements shall be stated in the minutes. **Meetings held**  
54 **in-person and not otherwise subject to being closed under**  
55 **section 610.021 shall be conducted in a manner that allows**  
56 **physical in-person public attendance.**

57 5. A formally constituted subunit of a parent  
58 governmental body may conduct a meeting without notice as  
59 required by this section during a lawful meeting of the  
60 parent governmental body, a recess in that meeting, or  
61 immediately following that meeting, if the meeting of the  
62 subunit is publicly announced at the parent meeting and the  
63 subject of the meeting reasonably coincides with the  
64 subjects discussed or acted upon by the parent governmental  
65 body.

66 6. If another provision of law requires a manner of  
67 giving specific notice of a meeting, hearing or an intent to  
68 take action by a governmental body, compliance with that  
69 section shall constitute compliance with the notice  
70 requirements of this section.

71 7. A journal or minutes of open and closed meetings  
72 shall be taken and retained by the public governmental body,  
73 including, but not limited to, a record of any votes taken  
74 at such meeting. The minutes shall include the date, time,  
75 place, members present, members absent and a record of any  
76 votes taken. When a roll call vote is taken, the minutes  
77 shall attribute each "yea" and "nay" vote or abstinence if  
78 not voting to the name of the individual member of the  
79 public governmental body.

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,  
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) Individually identifiable customer usage and**  
190 **billing records for customers of a municipally owned utility**  
191 **unless the records are requested by the customer or**  
192 **authorized for release by the customer, except that a**  
193 **municipally owned utility shall make available to the public**  
194 **the customer's name, billing address, location of service,**

195 and dates of service provided for any commercial service  
196 account; and

197 (26) Email addresses and telephone numbers submitted  
198 to a public governmental body by individuals or entities for  
199 the sole purpose of receiving electronic or other  
200 communications limited to newsletters, notifications,  
201 advisories, alerts, and periodic reports.

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