

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 968
AN ACT

To repeal sections 44.032 and 431.202, RSMo, and to enact in lieu thereof five new sections relating to business entities.

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

Section A. Sections 44.032 and 431.202, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as
3 sections 44.032, 407.475, 431.201, 431.202, and 650.570, to
4 read as follows:

44.032. 1. (1) As used in this section, the term
2 "rural electric cooperative" means any rural electric
3 cooperative organized or operating under the provisions of
4 chapter 394, any corporation organized on a nonprofit or a
5 cooperative basis as described in subsection 1 of section
6 394.200, or any electrical corporation operating under a
7 cooperative business plan as described in subsection 2 of
8 section 393.110.

9 (2) The general assembly recognizes the necessity for
10 anticipating and making advance provisions to care for the
11 unusual and extraordinary burdens imposed by disasters or
12 emergencies on this state [and], its political subdivisions
13 [by disasters or emergencies], and rural electric
14 cooperatives. To meet such situations, it is the intention
15 of the general assembly to confer emergency powers on the
16 governor, acting through the director, and vesting the
17 governor with adequate power and authority within the

18 limitation of available funds in the Missouri disaster fund
19 to meet any such emergency or disaster.

20 2. There is hereby established a fund to be known as
21 the "Missouri Disaster Fund", to which the general assembly
22 may appropriate funds and from which funds may be

23 appropriated annually to the state emergency management
24 agency. The funds appropriated shall be expended during a
25 state emergency at the direction of the governor and upon
26 the issuance of an emergency declaration which shall set
27 forth the emergency and shall state that it requires the
28 expenditure of public funds to furnish immediate aid and
29 relief. The director of the state emergency management
30 agency shall administer the fund.

31 3. Expenditures may be made upon direction of the
32 governor for emergency management, as defined in section
33 44.010, or to implement the state disaster plans.
34 Expenditures may also be made to meet the matching
35 requirements of state and federal agencies for any
36 applicable assistance programs.

37 4. Assistance may be provided from the Missouri
38 disaster fund to political subdivisions of this state
39 [which] and rural electric cooperatives that have suffered
40 from a disaster to such an extent as to impose a severe
41 financial burden exceeding the ordinary reserve capacity of
42 the subdivision or rural electric cooperative affected.
43 Applications for aid under this section shall be made to the
44 state emergency management agency on such forms as may be
45 prescribed and furnished by the agency, which forms shall
46 require the furnishing of sufficient information to
47 determine eligibility for aid and the extent of the
48 financial burden incurred. The agency may call upon other
49 agencies of the state in evaluating such applications. The
50 director of the state emergency management agency shall

51 review each application for aid under the provisions of this
52 section and recommend its approval or disapproval, in whole
53 or in part, to the governor. If approved, the governor
54 shall determine and certify to the director of the state
55 emergency management agency the amount of aid to be
56 furnished. The director of the state emergency management
57 agency shall thereupon issue ~~[his]~~ the director's voucher to
58 the commissioner of administration, who shall issue ~~[his]~~
59 the commissioner's warrants therefor to the applicant.

60 5. When a disaster or emergency has been proclaimed by
61 the governor or there is a national emergency, the director
62 of the state emergency management agency, upon order of the
63 governor, shall have authority to expend funds for the
64 following:

65 (1) The purposes of sections 44.010 to 44.130 and the
66 responsibilities of the governor and the state emergency
67 management agency as outlined in sections 44.010 to 44.130;

68 (2) Employing, for the duration of the response and
69 recovery to emergency, additional personnel and contracting
70 or otherwise procuring necessary appliances, supplies,
71 equipment, and transport;

72 (3) Performing services for and furnishing materials
73 and supplies to state government agencies, counties, ~~[and]~~
74 municipalities, and rural electric cooperatives with respect
75 to performance of any duties enjoined by law upon such
76 agencies, counties, ~~[and]~~ municipalities, and rural electric
77 cooperatives which they are unable to perform because of
78 extreme natural or man-made phenomena, and receiving
79 reimbursement in whole or in part from such agencies,
80 counties, ~~[and]~~ municipalities, and rural electric
81 cooperatives able to pay therefor under such terms and
82 conditions as may be agreed upon by the director of the

83 state emergency management agency and any such agency,
84 county, [or] municipality, or rural electric cooperative;

85 (4) Performing services for and furnishing materials
86 to any individual in connection with alleviating hardship
87 and distress growing out of extreme natural or man-made
88 phenomena, and receiving reimbursement in whole or in part
89 from such individual under such terms as may be agreed upon
90 by the director of the state emergency management agency and
91 such individual;

92 (5) Providing services to counties and municipalities
93 with respect to quelling riots and civil disturbances;

94 (6) Repairing and restoring public infrastructure;

95 (7) Furnishing transportation for supplies to
96 alleviate suffering and distress;

97 (8) Furnishing medical services and supplies to
98 prevent the spread of disease and epidemics;

99 (9) Quelling riots and civil disturbances;

100 (10) Training individuals or governmental agencies for
101 the purpose of perfecting the performance of emergency
102 assistance duties as defined in the state disaster plans;

103 (11) Procurement, storage, and transport of special
104 emergency supplies or equipment determined by the director
105 to be necessary to provide rapid response by state
106 government to assist counties and municipalities in
107 impending or actual emergencies;

108 (12) Clearing or removing from publicly or privately
109 owned land or water, debris and wreckage which may threaten
110 public health or safety;

111 (13) Reimbursement to any urban search and rescue task
112 force for any reasonable and necessary expenditures incurred
113 in the course of responding to any declared emergency under
114 this section; and

115 (14) Such other measures as are customarily necessary
116 to furnish adequate relief in cases of catastrophe or
117 disaster.

118 6. The governor may receive such voluntary
119 contributions as may be made from any source to aid in
120 carrying out the purposes of this section and shall credit
121 the same to the Missouri disaster fund.

122 7. All obligations and expenses incurred by the
123 governor in the exercise of the powers and duties vested by
124 the provisions of this section shall be paid by the state
125 treasurer out of available funds in the Missouri disaster
126 fund, and the commissioner of administration shall draw
127 warrants upon the state treasurer for the payment of such
128 sum, or so much thereof as may be required, upon receipt of
129 proper vouchers provided by the director of the state
130 emergency management agency.

131 8. The provisions of this section shall be liberally
132 construed in order to accomplish the purposes of sections
133 44.010 to 44.130 and to permit the governor to cope
134 adequately with any emergency which may arise, and the
135 powers vested in the governor by this section shall be
136 construed as being in addition to all other powers presently
137 vested in the governor and not in derogation of any existing
138 powers.

139 9. Such funds as may be made available by the
140 government of the United States for the purpose of
141 alleviating distress from disasters may be accepted by the
142 state treasurer and shall be credited to the Missouri
143 disaster fund, unless otherwise specifically provided in the
144 act of Congress making such funds available.

145 10. The foregoing provisions of this section
146 notwithstanding, any expenditure or proposed series of
147 expenditures which total in excess of one thousand dollars

148 per project shall be approved by the governor prior to the
149 expenditure.

407.475. 1. Except when specifically required or
2 authorized by federal law, no state agency or state official
3 shall impose any additional annual filing or reporting
4 requirements on an organization regulated or specifically
5 exempted from regulation under sections 407.450 to 407.478
6 that are more stringent, restrictive, or expansive than the
7 requirements authorized under section 407.462.

8 2. This section shall not apply to state grants or
9 contracts, nor investigations under section 407.472 and
10 shall not restrict enforcement actions against specific
11 charitable organizations. This section shall not apply to
12 labor organizations, as that term is defined in section
13 105.500.

14 3. This section shall not apply when an organization
15 regulated or specifically exempted from regulation under
16 sections 407.450 to 407.475 is providing any report or
17 disclosure required by state law to be filed with the
18 secretary of state.

431.201. As used in section 431.202, unless the
2 context otherwise requires, the following terms mean:

3 (1) "Business entity", any natural person, business,
4 corporation, limited liability company, series limited
5 liability company, partnership, sole or other
6 proprietorship, professional practice, or any other business
7 organization or commercial enterprise, whether for profit or
8 not for profit, including, without limitation, any successor
9 in interest to an entity who conducts business or who,
10 directly or indirectly, owns any equity interest, ownership,
11 or profit participation in the entity;

12 (2) "Customers with whom the employee dealt", each
13 customer or prospective customer:

14 (a) Who was serviced, directly or indirectly, by an
15 employee of a business entity;

16 (b) Whose business or other dealings with a business
17 entity were supervised, coordinated, or otherwise worked on,
18 directly or indirectly, by an employee;

19 (c) Who was solicited, produced, induced, persuaded,
20 encouraged, or otherwise dealt with, directly or indirectly,
21 by an employee;

22 (d) About whom an employee, directly or indirectly,
23 obtained, had knowledge of, had access to, or is in
24 possession of confidential business or proprietary
25 information or trade secrets in the course of or as a result
26 of the employee's relationship with the business entity;

27 (e) Who has purchased or otherwise obtained products
28 or services from a business entity and the sale or provision
29 of which resulted in compensation, commissions, earnings, or
30 profits to or for the employee within two years prior to the
31 end of the employee's employment or business relationship
32 with the business entity; or

33 (f) With whom an employee had contact, directly or
34 indirectly, of sufficient quality, frequency, and duration
35 during the employee's employment or other business
36 relationship with the business entity such that the employee
37 had influence over the customer;

38 (3) "Employee":

39 (a) A natural person currently or formerly employed or
40 retained by a business entity in any capacity, or who has
41 performed work for a business entity, including, but not
42 limited to, a member of a board of directors, an officer, a
43 supervisor, an independent contractor, or a vendor;

44 (b) A natural person who, by reason of having been
45 employed by or having a business relationship with a
46 business entity:

47 a. Obtained specialized skills, training, learning, or
48 abilities; or

49 b. Obtained, had knowledge of, had access to, or is in
50 possession of confidential or proprietary business
51 information or trade secrets of the business entity,
52 including, but not limited to, customer contact information
53 or information of or belonging to customers of the business
54 entity; or

55 (c) A current or former owner or seller of all or any
56 part of the assets of a business entity or of any interest
57 in a business entity, including, but not limited to, all or
58 any part of the shares of a corporation, a partnership
59 interest, a membership or membership interest in a limited
60 liability company or a series limited liability company, or
61 an equity interest, ownership, profit participation, or
62 other interest of any type in any business entity;

63 (d) The term "employee" set forth in this subdivision
64 shall be applicable only with respect to section 431.202 and
65 shall have no application in any other context. The term
66 "employee" is not intended, and shall not be relied upon, to
67 create, change, or affect the employment status of any
68 natural person or the meaning of the terms "employee",
69 "employment", or "employer" that may be applicable in any
70 other context or pursuant to any other provision of law.

431.202. 1. A reasonable covenant in writing
2 promising not to solicit, recruit, hire, induce, persuade,
3 encourage, or otherwise interfere with, directly or
4 indirectly, the employment or other business relationship of
5 one or more employees of a business entity shall be
6 enforceable and not a restraint of trade pursuant to
7 subsection 1 of section 416.031 if:

8 (1) Between two or more [corporations or other]
9 business entities seeking to preserve workforce stability

10 (which shall be deemed to be among the protectable interests
11 of each [corporation or] such business entity) during, and
12 for a reasonable period following, negotiations between such
13 [corporations or] business entities for the acquisition of
14 all or a part of one or more of such [corporations or]
15 business entities;

16 (2) Between two or more [corporations or] business
17 entities engaged in a joint venture or other legally
18 permissible business arrangement where such covenant seeks
19 to protect against possible misuse of confidential business
20 or proprietary information or trade [secret business
21 information] secrets shared or to be shared between or among
22 such [corporations or] entities;

23 (3) Between [an employer] a business entity and one or
24 more employees of such business entity seeking on the part
25 of the [employer] business entity to protect:

26 (a) Confidential business or proprietary information
27 or trade [secret business information] secrets; or

28 (b) Customer or supplier relationships, goodwill or
29 loyalty, which shall be deemed to be among the protectable
30 interests of the [employer] business entity; or

31 (4) Between [an employer] a business entity and one or
32 more employees of such business entity, notwithstanding the
33 absence of the protectable interests described in
34 subdivision (3) of this subsection, so long as such covenant
35 does not continue for more than [one year] two years
36 following the employee's employment or business relationship
37 with the business entity; provided, however, that this
38 subdivision shall not apply to covenants signed by employees
39 who provide only secretarial or clerical services and who
40 own no shares, partnership interest, membership or
41 membership interest in a limited liability company or series
42 limited liability company, or equity interest, ownership,

43 profit participation, or other interest of any type in the
44 business entity.

45 2. Whether a covenant covered by subsection 1 of this
46 section is reasonable shall be determined based upon the
47 facts and circumstances pertaining to such covenant, but a
48 covenant covered exclusively by subdivision (3) or (4) of
49 subsection 1 of this section shall be conclusively presumed
50 to be reasonable if its postemployment or postbusiness
51 duration is no more than [one year] two years.

52 3. A reasonable covenant in writing promising not to
53 solicit, induce, persuade, encourage, service, accept
54 business from, or otherwise interfere with, directly or
55 indirectly, a business entity's customers, including,
56 without limitation, any reduction, termination, or transfer
57 of any customer's business, in whole or in part, for
58 purposes of providing any product or any service that is
59 competitive with those provided by the business entity,
60 shall be enforceable, and not a restraint of trade pursuant
61 to subsection 1 of section 416.031, if the covenant is
62 limited to customers with whom the employee dealt during the
63 employee's employment or other business relationship with
64 the business entity, and if:

65 (1) The covenant is between a business entity and one
66 or more current or former employees of the business entity
67 and is not associated with the sale or ownership of all or
68 any part of:

69 (a) The assets of a business entity; or

70 (b) Any interest in a business entity, including, but
71 not limited to, all or any part of the shares of a
72 corporation, a partnership interest, a membership or
73 membership interest in a limited liability company or series
74 limited liability company, or an equity interest, ownership,

75 profit participation, or other interest of any type in any
76 business entity;

77 so long as the covenant does not continue for more than two
78 years following the end of the employee's employment or
79 business relationship with the business entity.

80 Notwithstanding the foregoing, this subdivision shall not
81 apply to covenants with current or former distributors,
82 dealers, franchisees, lessees of real or personal property,
83 or licensees of a trademark, trade dress, or service mark;

84 (2) The covenant is between a business entity and a
85 current or former distributor, dealer, franchisee, lessee of
86 real or personal property, or licensee of a trademark, trade
87 dress, or service mark, and is not associated with the sale
88 or ownership of all or any part of any of the items provided
89 in paragraphs (a) or (b) of subdivision (1) of this
90 subsection, so long as such covenant does not continue for
91 more than three years following the end of the business
92 relationship; or

93 (3) The covenant is between a business entity and the
94 owner or seller of all or any part of any of the items
95 provided in paragraphs (a) or (b) of subdivision (1) of this
96 subsection, so long as the covenant does not continue for
97 more than the longer of five years in duration or the period
98 of time during which payments are being made to the owner or
99 seller as a result of any sale measured from the date of
100 termination, closing, or disposition of such items.

101 (a) A breach or threatened breach of a covenant
102 described in this subdivision shall create a conclusive
103 presumption of irreparable harm in the absence of an
104 issuance of injunctive relief in connection with the
105 enforcement of the covenant, without the necessity of
106 establishing by prima facie evidence any actual or
107 threatened damages or harm. Nothing in this paragraph shall

108 be construed to change any other applicable evidentiary
109 standard or other standards necessary for obtaining
110 temporary, preliminary, or permanent injunctive relief
111 relating to the enforcement of covenants.

112 (b) A provision in writing by which an employee
113 promises to provide prior notice to a business entity of the
114 employee's intent to terminate, sell, or otherwise dispose
115 of all or any part of any of the items covered by this
116 subdivision shall be conclusively presumed to be
117 enforceable, and not a restraint of trade pursuant to
118 subsection 1 of section 416.031, if the specified notice
119 period is no longer than thirty days in duration and the
120 business entity agrees in writing to pay the employee at the
121 employee's regular rate of pay and to provide the employee
122 with the employee's regular benefits during the applicable
123 notice period even if the business entity does not require
124 the employee to provide services during the notice period.

125 4. Whether a covenant covered by subsection 3 of this
126 section is reasonable shall be determined based upon the
127 facts and circumstances pertaining to the covenant, but a
128 covenant covered by subdivisions (1) to (3) of subsection 3
129 of this section shall be conclusively presumed to be
130 reasonable if its postemployment, posttermination,
131 postbusiness relationship, postsale, or postdisposition
132 duration is consistent with the applicable duration set
133 forth in subdivisions (1) to (3) of subsection 3 of this
134 section.

135 5. No express reference to geographic area shall be
136 required for a covenant described in this section to be
137 enforceable.

138 6. If a covenant is overbroad, overlong, or otherwise
139 not reasonably necessary to protect the legitimate business
140 interests of the person seeking enforcement of the covenant,

141 a court shall modify the covenant, enforce the covenant as
142 modified, and grant only the relief reasonably necessary to
143 protect such interests.

144 7. Nothing in subdivision (3) or (4) of subsection 1
145 or subdivisions (1) to (3) of subsection 3 of this section
146 is intended to create, or to affect the validity or
147 enforceability of, [employer-employee] covenants not to
148 compete, other types of covenants, or nondisclosure or
149 confidentiality agreements, except as expressly provided in
150 this section.

151 [4.] 8. Nothing in this section shall preclude a
152 covenant described in subsection 1 of this section from
153 being enforceable in circumstances other than those
154 described in subdivisions (1) to (4) of subsection 1 of this
155 section, or a covenant described in subsection 3 of this
156 section from being enforceable in circumstances other than
157 those described in subdivisions (1) to (3) of subsection 3
158 of this section, where such covenant is reasonably necessary
159 to protect a party's legally permissible business interests.

160 [5.] 9. Except as otherwise expressly provided in this
161 section, nothing [is] in this section shall be construed to
162 limit an employee's ability to seek or accept employment
163 with another employer immediately upon, or at any time
164 subsequent to, termination of employment, whether said
165 termination was voluntary or nonvoluntary.

166 [6.] 10. This section shall have retrospective as well
167 as prospective effect.

650.570. 1. This act shall be known and may be cited
2 as the "Faith Without Fear Act".

3 2. The department of public safety shall distribute to
4 any not-for-profit religious organization a one-time grant
5 for the purpose of enhancing physical security, subject to
6 the requirements of this section. No not-for-profit

7 religious organization shall receive more than one grant
8 pursuant to this section.

9 3. Grants distributed under this section shall not
10 exceed seventy-five percent of the total cost of the
11 security enhancement.

12 4. Subject to appropriation, no more than twenty-five
13 million dollars shall be distributed under this section and
14 no more than two million five hundred thousand dollars shall
15 be distributed under this section in any fiscal year. No
16 more than fifty thousand dollars shall be distributed to any
17 one not-for-profit religious organization annually.

18 5. (1) The department of public safety shall create
19 an on-line application form as part of its website which
20 shall be the sole means of applying for grants under this
21 section. Any not-for-profit religious organization seeking
22 a grant under this section shall submit an application to
23 the department using such form on the department's website.
24 The not-for-profit religious organization shall submit
25 documents showing how it plans to enhance security,
26 including plans for how the not-for-profit religious
27 organization will cover the remaining twenty-five percent of
28 the cost for its security enhancement.

29 (2) In assessing the plans of a not-for-profit
30 religious organization for covering the remaining twenty-
31 five percent of the cost, the department shall only consider
32 costs for the following:

- 33 (a) Physical security enhancements;
- 34 (b) Security personnel costs;
- 35 (c) Installation costs;
- 36 (d) Costs related to increased square footage in the
37 not-for-profit religious organization's place of business;
- 38 (e) Employee and security training costs;
- 39 (f) New employee salaries; and

40 (g) Existing employee salaries due to new security
41 duties.

42 (3) Any not-for-profit religious organization applying
43 for a grant shall submit documentation to the department
44 showing how grant funds will be used.

45 6. The department shall prescribe the time of filing
46 applications and supervise the processing thereof, provided
47 that applications shall be accepted by the department
48 beginning October 1, 2022.

49 7. The department shall select qualified recipients to
50 receive grants and determine the manner and method of
51 payment to the recipients.

52 8. Any not-for-profit religious organization who
53 receives a grant pursuant to this section shall submit
54 documentation to the department no later than one year after
55 the distribution showing how the grant funds were spent.

56 9. In the case of a not-for-profit religious
57 organization with employees and locations in more than one
58 state, grant funds distributed pursuant to this section
59 shall be used only for locations in Missouri and employees
60 residing in Missouri.

61 10. For purposes of this section, the terms "enhancing
62 security" and "security enhancement" mean:

63 (1) Physical infrastructure security improvement
64 investments;

65 (2) Security risk assessment costs;

66 (3) Costs associated with employee training programs;

67 and

68 (4) Costs associated with upskilling employees with
69 security-related certifications or credentials.

70 11. For the purposes of this section, the term "not-
71 for-profit religious organization" means any church,
72 synagogue, mosque, or any entity that has or would qualify

73 for federal tax-exempt status as a not-for-profit religious
74 organization under Section 501(c) of the Internal Revenue
75 Code.