

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 213

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:

1 Section A. Section 105.483, RSMo, is repealed and five new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

5 105.483. Each of the following persons shall be required to
6 file a financial interest statement:

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

10 (2) Persons holding an elective office of the state,
11 whether by election or appointment, and candidates for such
12 elective office, except those running for or serving as county
13 committee members for a political party pursuant to section
14 115.609 or section 115.611;

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

1 state official;

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

7 (5) The director and each assistant deputy director and the
8 general counsel and the chief purchasing officer of each
9 department, division and agency of state government;

10 (6) Any official or employee of the state authorized by law
11 to promulgate rules and regulations or authorized by law to vote
12 on the adoption of rules and regulations;

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

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

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

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

26 (11) Each elected official, candidate for elective office,
27 the chief administrative officer, the chief purchasing officer
28 and the general counsel, if employed full time, of each political

1 subdivision with an annual operating budget in excess of one
2 million dollars, and each official or employee of a political
3 subdivision who is authorized by the governing body of the
4 political subdivision to promulgate rules and regulations with
5 the force of law or to vote on the adoption of rules and
6 regulations with the force of law; unless the political
7 subdivision adopts an ordinance, order or resolution pursuant to
8 subsection 4 of section 105.485;

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

12 (13) Any person selected by the state auditor as an
13 applicant to be considered by the majority leader and minority
14 leader of the senate for the post of nonpartisan state
15 demographer pursuant to article III, section 3 of the Missouri
16 Constitution.

17 127.010. For purposes of this chapter, the following terms
18 and phrases shall mean:

19 (1) "Demographer" or "nonpartisan state demographer", the
20 nonpartisan state demographer appointed pursuant to article III,
21 section 3 of the Missouri Constitution;

22 (2) "Interested party", any lobbyist, lobbyist principal,
23 paid political consultant, state representative, state senator,
24 or a spouse, dependent child, employee, or staff member of any
25 such person or any organization having the primary or incidental
26 purpose of influencing the redistricting process;

27 (3) "Lobbyist", shall have the same meaning as in section
28 105.470;

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

3 (5) "Redistricting process", the process of accepting state
4 legislative districts pursuant to article III of the Missouri
5 Constitution;

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

11 (7) "Redistricting records", any comments, records,
12 documents, maps, or information of any kind received by the
13 demographer from a person or entity that is not the demographer
14 and any comments, records, documents, maps, data files,
15 communication, or information created by the demographer during
16 the term of the demographer as part of the redistricting process.

17 127.020. 1. During the term of the nonpartisan state
18 demographer, the demographer shall not:

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

22 (2) Accept directly or indirectly from any source other
23 than the state of Missouri any compensation, grants, stipends,
24 retainers, or remuneration of any kind;

25 (3) Employ, contract with, or delegate authority to,
26 directly or indirectly, any other person or entity, including but
27 not limited to counsel, to perform any work or analysis for the
28 redistricting process; or

1 (4) Engage in written or oral communication with any person
2 or entity seeking to influence the redistricting process,
3 provided that comments, records, documents, maps, data files,
4 communication, and information of any kind may be received
5 pursuant to section 127.030.

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

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

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

15 5. Any person selected by the state auditor as an applicant
16 to be considered by the majority leader and minority leader of
17 the senate for the post of demographer shall file with the
18 Missouri ethics commission and the secretary of the senate the
19 financial interest statement required by section 105.485 no later
20 than fourteen days after the state auditor has delivered the list
21 of applicants to the majority leader and minority leader of the
22 senate. In filing such statement, the person shall additionally
23 include the following information with respect to himself or
24 herself and his or her spouse and dependent children:

25 (1) The name and address of each organization exempt from
26 taxation pursuant to Sections 501(c) or 527 of the Internal
27 Revenue Code of 1986, as amended, in which such person was an
28 officer, director, employee, trustee, analyst, advisor, or fellow

1 at any time during the two years preceding selection as an
2 applicant to be considered as demographer, and for each such
3 organization, a general description of the nature and purpose of
4 the organization;

5 (2) The name and address of each organization exempt from
6 taxation pursuant to Sections 501(c) or 527 of the Internal
7 Revenue Code of 1986, as amended, from which such person received
8 a grant or payment of any kind during the two years preceding
9 selection as an applicant to be considered as demographer, and
10 for each such organization, a general description of the nature
11 and purpose of the organization.

12 127.030. 1. The nonpartisan state demographer shall
13 establish a website, to be known as the "Redistricting Public
14 Comment Portal", for the purpose of allowing the public
15 acceptance of comments, records, documents, maps, data files,
16 communication, or information of any kind relating to the
17 redistricting process.

18 2. The nonpartisan state demographer shall accept comments,
19 records, documents, maps, data files, communication, and
20 information of any kind relating to the redistricting process
21 solely through the redistricting public comment portal.

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

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

28 (2) A person or entity other than the person or entity

1 making the submission contributed money that was intended to fund
2 the preparation of the submission and, if so, the disclosure form
3 shall additionally identify each such person or entity.

4 4. (1) All redistricting records shall be considered the
5 property of the state and shall not be mutilated, destroyed,
6 transferred, removed, or otherwise damaged or disposed of, in
7 whole or in part, except as provided in sections 109.200 to
8 109.310.

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

11 (3) Upon the expiration of the term to which the
12 demographer was selected, all redistricting records shall be
13 deposited in the state records center and archives and shall be
14 managed pursuant to sections 109.200 to 109.310.

15 127.040. 1. When it appears to the attorney general that a
16 person has violated any provision of this chapter or when he or
17 she believes it to be in the public interest that an
18 investigation should be made to ascertain whether a person in
19 fact has violated this chapter, he or she may execute in writing
20 and cause to be served upon any person who is believed to have
21 information, documentary material, or physical evidence relevant
22 to the alleged or suspected violation, a civil investigative
23 demand requiring such person to appear and testify, or to produce
24 relevant documentary material or physical evidence or
25 examination, at such reasonable time and place as may be stated
26 in the civil investigative demand. Service of any civil
27 investigative demand, notice, or subpoena may be made by any
28 person authorized by law to serve process or by any duly

1 authorized employee of the attorney general.

2 2. Each civil investigative demand shall:

3 (1) State the statute and section thereof, the alleged
4 violation of which is under investigation, and the general
5 subject matter of the investigation;

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

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

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

15 3. No civil investigative demand shall:

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

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

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

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

1 (2) Delivering a duly executed copy thereof to the
2 principal place of business or the residence in this state of the
3 person to be served;

4 (3) Mailing by registered or certified mail a duly executed
5 copy thereof, addressed to the person to be served, at the
6 principal place of business or the residence in this state or, if
7 such person has no place of business or residence in this state,
8 to his or her principal office or place of business or his or her
9 residence; or

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

14 5. Documentary material, information, or physical evidence
15 demanded pursuant to the provisions of this section shall be
16 produced during normal business hours at the principal office or
17 place of business of the person served, or at such other times
18 and places as may be agreed upon by the person served and the
19 attorney general.

20 6. A person upon whom a civil investigative demand is
21 served pursuant to this section shall comply with the terms
22 thereof unless otherwise provided by an order of a court. Any
23 person who, with intent to avoid, evade, or prevent compliance,
24 in whole or in part, with any civil investigative demand issued
25 pursuant to this section, removes from any place, conceals,
26 withholds, or destroys, mutilates, alters, or by any other means
27 falsifies any information, documentary material, or physical
28 evidence in the possession, custody, or control of any person,

1 that is the subject of any such civil investigative demand shall
2 be guilty of a class A misdemeanor. The attorney general shall
3 have original jurisdiction to enforce the provisions of this
4 section.

5 7. (1) Whenever any person fails to comply with any civil
6 investigative demand duly served upon him or her pursuant to this
7 section or whenever satisfactory copying or reproduction of any
8 such material cannot be done and such person refuses to surrender
9 such material, the attorney general, through such officers or
10 attorneys as he or she may designate, may file, in the trial
11 court of general jurisdiction of a county or judicial district in
12 which such person resides, is found, or transacts business, and
13 serve upon such person a petition for an order of such court for
14 the enforcement of such civil investigative demand.

15 (2) Notwithstanding subdivision (1) of this subsection to
16 the contrary, if a person transacts business in more than one
17 county or judicial district, a petition shall be filed in the
18 county or judicial district in which such person maintains his or
19 her principal place of business, or in such other county or
20 judicial district as may be agreed upon by the parties to such
21 petition.

22 (3) Whenever any petition is filed in the trial court of
23 general jurisdiction of a county or judicial district pursuant to
24 this section, such court shall have jurisdiction to hear and
25 determine the matter so presented, and to enter such order or
26 orders as may be required to carry into effect the provisions of
27 this chapter. Any final order so entered shall be subject to
28 appeal to the supreme court. Any disobedience of any final order

1 entered pursuant to this section by any court shall be punished
2 as contempt.

3 8. (1) Whenever it appears to the attorney general that a
4 person has violated, is violating, or is about to violate any
5 provision of this chapter, he or she may issue and cause to be
6 served upon such person, and any other person or persons
7 concerned with or who, in any way, have participated, are
8 participating, or are about to participate in such violation, an
9 order prohibiting such person or persons from engaging or
10 continuing to engage in such unlawful act.

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

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

17 (b) The nature of the alleged violation.

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

22 9. All orders issued by the attorney general pursuant to
23 subsection 8 of this section shall be signed by the attorney
24 general or, in his or her absence, a duly authorized
25 representative, and shall be served in the manner provided in
26 subsection 4 of this section and shall expire of their own force
27 ten days after being served.

28 10. Any person who has been duly served with an order

1 issued pursuant to subsection 8 of this section and who willfully
2 and knowingly violates any provision of such order while such
3 order remains in effect, either as originally issued or as
4 modified, shall be guilty of a class E felony. The attorney
5 general shall have original jurisdiction to commence all criminal
6 actions necessary to enforce this section.

7 11. (1) Whenever it appears to the attorney general that a
8 person has engaged in, is engaging in, or is about to engage in
9 any act prohibited by this chapter, the attorney general may seek
10 and obtain, in an action in a circuit court, an injunction
11 prohibiting such person from continuing such act, or engaging
12 therein, or doing anything in furtherance thereof.

13 (2) In any action under subsection 1 of this section, and
14 pursuant to the provisions of the Missouri Rules of Civil
15 Procedure, the attorney general may seek and obtain temporary
16 restraining orders, preliminary injunctions, temporary receivers,
17 and the sequestering of any funds or accounts if the court finds
18 that funds or property may be hidden or removed from the state or
19 that such orders or injunctions are otherwise necessary.

20 (3) If the court finds that the person has engaged in, is
21 engaging in, or is about to engage in any act prohibited by this
22 chapter, it may make such orders or judgments as may be necessary
23 to prevent such person from employing or continuing to employ, or
24 to prevent the recurrence of, any acts prohibited by this
25 chapter.

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

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

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

12 (7) The attorney general may enter into consent judgments
13 or consent injunctions with or without admissions of violations
14 of this chapter. Violation of any such consent judgment or
15 consent injunction shall be subject to a civil penalty of not
16 more than five thousand dollars per violation, to be paid to the
17 state.