

FIRST REGULAR SESSION

# SENATE BILL NO. 788

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

3124S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to the closure of certain public records and meetings.

*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Section A. Section 610.021, RSMo, is repealed and one new  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,  
17 prior to final disposition, the settlement agreement is  
18 ordered closed by a court after a written finding that the

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

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) Records relating to reports of allegations of  
102 improper governmental activities under section 29.221;

103 (18) Confidential or privileged communications between  
104 a public governmental body and its auditor, including all  
105 auditor work product; however, all final audit reports  
106 issued by the auditor are to be considered open records  
107 pursuant to this chapter;

108 (19) (a) Security measures, global positioning system  
109 (GPS) data, investigative information, or investigative or  
110 surveillance techniques of any public agency responsible for  
111 law enforcement or public safety that, if disclosed, has the  
112 potential to endanger the health or safety of an individual  
113 or the public.

114 (b) Any information or data provided to a tip line for  
115 the purpose of safety or security at an educational  
116 institution that, if disclosed, has the potential to  
117 endanger the health or safety of an individual or the public.

118 (c) Any information contained in any suspicious  
119 activity report provided to law enforcement that, if  
120 disclosed, has the potential to endanger the health or  
121 safety of an individual or the public.

122 (d) Operational guidelines, policies and specific  
123 response plans developed, adopted, or maintained by any  
124 public agency responsible for law enforcement, public  
125 safety, first response, or public health for use in  
126 responding to or preventing any critical incident which has  
127 the potential to endanger individual or public safety or  
128 health. Financial records related to the procurement of or  
129 expenditures relating to operational guidelines, policies or  
130 plans purchased with public funds shall be open. When  
131 seeking to close information pursuant to this exception, the  
132 public governmental body shall affirmatively state in  
133 writing that disclosure would impair the public governmental  
134 body's ability to protect the security or safety of persons  
135 or real property, and shall in the same writing state that  
136 the public interest in nondisclosure outweighs the public  
137 interest in disclosure of the records;

138 (20) Existing or proposed security systems and  
139 structural plans of real property owned or leased by a  
140 public governmental body, and information that is  
141 voluntarily submitted by a nonpublic entity owning or  
142 operating an infrastructure to any public governmental body  
143 for use by that body to devise plans for protection of that  
144 infrastructure, the public disclosure of which would  
145 threaten public safety:

146 (a) Records related to the procurement of or  
147 expenditures relating to security systems purchased with  
148 public funds shall be open;

149 (b) When seeking to close information pursuant to this  
150 exception, the public governmental body shall affirmatively  
151 state in writing that disclosure would impair the public  
152 governmental body's ability to protect the security or  
153 safety of persons or real property, and shall in the same  
154 writing state that the public interest in nondisclosure  
155 outweighs the public interest in disclosure of the records;

156 (c) Records that are voluntarily submitted by a  
157 nonpublic entity shall be reviewed by the receiving agency  
158 within ninety days of submission to determine if retention  
159 of the document is necessary in furtherance of a state  
160 security interest. If retention is not necessary, the  
161 documents shall be returned to the nonpublic governmental  
162 body or destroyed;

163 (21) The portion of a record that identifies security  
164 systems or access codes or authorization codes for security  
165 systems of real property;

166 (22) Records that identify the configuration of  
167 components or the operation of a computer, computer system,  
168 computer network, or telecommunications network, and would  
169 allow unauthorized access to or unlawful disruption of a  
170 computer, computer system, computer network, or  
171 telecommunications network of a public governmental body.  
172 This exception shall not be used to limit or deny access to  
173 otherwise public records in a file, document, data file or  
174 database containing public records. Records related to the  
175 procurement of or expenditures relating to such computer,  
176 computer system, computer network, or telecommunications  
177 network, including the amount of moneys paid by, or on

178 behalf of, a public governmental body for such computer,  
179 computer system, computer network, or telecommunications  
180 network shall be open;

181 (23) Credit card numbers, personal identification  
182 numbers, digital certificates, physical and virtual keys,  
183 access codes or authorization codes that are used to protect  
184 the security of electronic transactions between a public  
185 governmental body and a person or entity doing business with  
186 a public governmental body. Nothing in this section shall  
187 be deemed to close the record of a person or entity using a  
188 credit card held in the name of a public governmental body  
189 or any record of a transaction made by a person using a  
190 credit card or other method of payment for which  
191 reimbursement is made by a public governmental body;

192 (24) Records submitted by an individual, corporation,  
193 or other business entity to a public institution of higher  
194 education in connection with a proposal to license  
195 intellectual property or perform sponsored research and  
196 which contains sales projections or other business plan  
197 information the disclosure of which may endanger the  
198 competitiveness of a business;

199 (25) Records relating to foster home or kinship  
200 placements of children in foster care under section 210.498;  
201 [and]

202 (26) Individually identifiable customer usage and  
203 billing records for customers of a municipally owned  
204 utility, unless the records are requested by the customer or  
205 authorized for release by the customer, except that a  
206 municipally owned utility shall make available to the public  
207 the customer's name, billing address, location of service,  
208 and dates of service provided for any commercial service  
209 account; **and**

210           (27) Records to protect the specific location of a  
211 plant or animal species considered endangered, threatened,  
212 critically imperiled, imperiled, or vulnerable when the  
213 known location may cause the species to be at an increased  
214 risk of peril.

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