

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 256, 33 & 305**  
**97TH GENERAL ASSEMBLY**

1162H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to sunset dates for exceptions to the public records law, with an emergency clause.

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*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Section A. Section 610.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.021, to read as follows:

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public  
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,  
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale  
22 of real estate by a public governmental body shall be made public upon execution of the lease,  
23 purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public  
25 governmental body when personal information about the employee is discussed or recorded.  
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,  
27 promote or discipline an employee of a public governmental body shall be made available with  
28 a record of how each member voted to the public within seventy-two hours of the close of the  
29 meeting where such action occurs; provided, however, that any employee so affected shall be  
30 entitled to prompt notice of such decision during the seventy-two-hour period before such  
31 decision is made available to the public.

32 As used in this subdivision, the term "personal information" means information relating to the  
33 performance or merit of individual employees;

34 (4) The state militia or national guard or any part thereof;

35 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,  
36 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or  
37 treatment;

38 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including  
39 records of individual test or examination scores; however, personally identifiable student records  
40 maintained by public educational institutions shall be open for inspection by the parents,  
41 guardian or other custodian of students under the age of eighteen years and by the parents,  
42 guardian or other custodian and the student if the student is over the age of eighteen years;

43 (7) Testing and examination materials, before the test or examination is given or, if it  
44 is to be given again, before so given again;

45 (8) Welfare cases of identifiable individuals;

46 (9) Preparation, including any discussions or work product, on behalf of a public  
47 governmental body or its representatives for negotiations with employee groups;

48 (10) Software codes for electronic data processing and documentation thereof;

49 (11) Specifications for competitive bidding, until either the specifications are officially  
50 approved by the public governmental body or the specifications are published for bid;

51 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals  
52 and related documents or any documents related to a negotiated contract until a contract is  
53 executed, or all proposals are rejected;

54 (13) Individually identifiable personnel records, performance ratings or records  
55 pertaining to employees or applicants for employment, except that this exemption shall not apply  
56 to the names, positions, salaries and lengths of service of officers and employees of public  
57 agencies once they are employed as such, and the names of private sources donating or  
58 contributing money to the salary of a chancellor or president at all public colleges and  
59 universities in the state of Missouri and the amount of money contributed by the source;

60 (14) Records which are protected from disclosure by law;

61 (15) Meetings and public records relating to scientific and technological innovations in  
62 which the owner has a proprietary interest;

63 (16) Records relating to municipal hotlines established for the reporting of abuse and  
64 wrongdoing;

65 (17) Confidential or privileged communications between a public governmental body  
66 and its auditor, including all auditor work product; however, all final audit reports issued by the  
67 auditor are to be considered open records pursuant to this chapter;

68 (18) Operational guidelines and policies developed, adopted, or maintained by any public  
69 agency responsible for law enforcement, public safety, first response, or public health for use in  
70 responding to or preventing any critical incident which is or appears to be terrorist in nature and  
71 which has the potential to endanger individual or public safety or health. Nothing in this  
72 exception shall be deemed to close information regarding expenditures, purchases, or contracts  
73 made by an agency in implementing these guidelines or policies. When seeking to close  
74 information pursuant to this exception, the agency shall affirmatively state in writing that  
75 disclosure would impair its ability to protect the safety or health of persons, and shall in the same  
76 writing state that the public interest in nondisclosure outweighs the public interest in disclosure  
77 of the records. This exception shall sunset on December 31, [2012] **2016**;

78 (19) Existing or proposed security systems and structural plans of real property owned  
79 or leased by a public governmental body, and information that is voluntarily submitted by a  
80 nonpublic entity owning or operating an infrastructure to any public governmental body for use  
81 by that body to devise plans for protection of that infrastructure, the public disclosure of which  
82 would threaten public safety:

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

85 (b) When seeking to close information pursuant to this exception, the public  
86 governmental body shall affirmatively state in writing that disclosure would impair the public  
87 governmental body's ability to protect the security or safety of persons or real property, and shall  
88 in the same writing state that the public interest in nondisclosure outweighs the public interest  
89 in disclosure of the records;

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

94 (d) This exception shall sunset on December 31, [2012] **2016**;

95 (20) Records that identify the configuration of components or the operation of a  
96 computer, computer system, computer network, or telecommunications network, and would  
97 allow unauthorized access to or unlawful disruption of a computer, computer system, computer  
98 network, or telecommunications network of a public governmental body. This exception shall  
99 not be used to limit or deny access to otherwise public records in a file, document, data file or  
100 database containing public records. Records related to the procurement of or expenditures  
101 relating to such computer, computer system, computer network, or telecommunications network,  
102 including the amount of moneys paid by, or on behalf of, a public governmental body for such  
103 computer, computer system, computer network, or telecommunications network shall be open;

104 (21) Credit card numbers, personal identification numbers, digital certificates, physical  
105 and virtual keys, access codes or authorization codes that are used to protect the security of  
106 electronic transactions between a public governmental body and a person or entity doing business  
107 with a public governmental body. Nothing in this section shall be deemed to close the record  
108 of a person or entity using a credit card held in the name of a public governmental body or any  
109 record of a transaction made by a person using a credit card or other method of payment for  
110 which reimbursement is made by a public governmental body; and

111 (22) Records submitted by an individual, corporation, or other business entity to a public  
112 institution of higher education in connection with a proposal to license intellectual property or  
113 perform sponsored research and which contains sales projections or other business plan  
114 information the disclosure of which may endanger the competitiveness of a business.

Section B. Because immediate action is necessary to protect sensitive public records  
2 relating to public agency plans to prevent and respond to possible terrorist incidents and to  
3 protect security system plans for certain critical public and private buildings and facilities, the  
4 repeal and reenactment of section 610.021 of section A of this act is deemed necessary for the  
5 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
6 to be an emergency act within the meaning of the constitution, and the repeal and reenactment  
7 of section 610.021 of section A of this act shall be in full force and effect upon its passage and  
8 approval.

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