

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 27

101ST GENERAL ASSEMBLY

0305H.03P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 610.020 and 610.027, RSMo, and to enact in lieu thereof three new sections relating to the sunshine law, with 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Section A. Sections 610.020 and 610.027, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 610.020, 610.027, and 610.040, to read as follows:

610.020. 1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body ~~[and]~~ , **posting the notice on the public governmental body's website and social media pages, if the public governmental body maintains a website or social media page, and** posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held. **If notice is posted to the public governmental body's**

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.

17 **website, a link to the page on the public governmental body's social media page of the**  
18 **meeting notice shall satisfy the social media notice requirement of this section.**

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

28 3. A public body shall allow for the recording by audiotape, videotape, or other  
29 electronic means of any open meeting. A public body may establish guidelines regarding the  
30 manner in which such recording is conducted so as to minimize disruption to the meeting. No  
31 audio recording of any meeting, record, or vote closed pursuant to the provisions of section  
32 610.021 shall be permitted without permission of the public body; any person who violates this  
33 provision shall be guilty of a class C misdemeanor.

34 4. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a  
35 place that is not reasonably accessible to the public, or at a time that is not reasonably convenient  
36 to the public, the nature of the good cause justifying that departure from the normal requirements  
37 shall be stated in the minutes.

38 5. A formally constituted subunit of a parent governmental body may conduct a meeting  
39 without notice as required by this section during a lawful meeting of the parent governmental  
40 body, a recess in that meeting, or immediately following that meeting, if the meeting of the  
41 subunit is publicly announced at the parent meeting and the subject of the meeting reasonably  
42 coincides with the subjects discussed or acted upon by the parent governmental body.

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

46 7. A journal or minutes of open and closed meetings shall be taken and retained by the  
47 public governmental body, including, but not limited to, a record of any votes taken at such  
48 meeting. The minutes shall include the date, time, place, members present, members absent and  
49 a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea"  
50 and "nay" vote or abstinence if not voting to the name of the individual member of the public  
51 governmental body. **All minutes of open meetings shall be posted on the public**  
52 **governmental body's website and social media page, if the public governmental body**

53 **maintains a website or social media page. If notice is posted to the public governmental**  
54 **body's website, a link to the page on the public governmental body's social media page of**  
55 **the meeting notice shall satisfy the social media notice requirement of this section.**

610.027. 1. The remedies provided by this section against public governmental bodies  
2 shall be in addition to those provided by any other provision of law. Any aggrieved person,  
3 taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek  
4 judicial enforcement of the requirements of sections 610.010 to ~~[610.026]~~ **610.040**. Suits to  
5 enforce sections 610.010 to ~~[610.026]~~ **610.040** shall be brought in the circuit court for the county  
6 in which the public governmental body has its principal place of business. Upon service of a  
7 summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce  
8 the provisions of sections 610.010 to ~~[610.026]~~ **610.040**, the custodian of the public record that  
9 is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise  
10 dispose of the public record sought to be inspected and examined, notwithstanding the  
11 applicability of an exemption pursuant to section 610.021 or the assertion that the requested  
12 record is not a public record until the court directs otherwise.

13 2. Once a party seeking judicial enforcement of sections 610.010 to ~~[610.026]~~ **610.040**  
14 demonstrates to the court that the body in question is subject to the requirements of sections  
15 610.010 to ~~[610.026]~~ **610.040** and has held a closed meeting, record or vote, the burden of  
16 persuasion shall be on the body and its members to demonstrate compliance with the  
17 requirements of sections 610.010 to ~~[610.026]~~ **610.040**.

18 3. Upon a finding by a preponderance of the evidence that a public governmental body  
19 or a member of a public governmental body has knowingly violated sections 610.010 to  
20 ~~[610.026]~~ **610.040**, the public governmental body or the member shall be subject to a civil  
21 penalty in an amount up to one thousand dollars. If the court finds that there is a knowing  
22 violation of sections 610.010 to ~~[610.026]~~ **610.040**, the court may order the payment by such  
23 body or member of all costs and reasonable attorney fees to any party successfully establishing  
24 a violation. The court shall determine the amount of the penalty by taking into account the size  
25 of the jurisdiction, the seriousness of the offense, and whether the public governmental body or  
26 member of a public governmental body has violated sections 610.010 to ~~[610.026]~~ **610.040**  
27 previously.

28 4. Upon a finding by a preponderance of the evidence that a public governmental body  
29 or a member of a public governmental body has purposely violated sections 610.010 to ~~[610.026]~~  
30 **610.040**, the public governmental body or the member shall be subject to a civil penalty in an  
31 amount up to five thousand dollars. If the court finds that there was a purposeful violation of  
32 sections 610.010 to ~~[610.026]~~ **610.040**, then the court shall order the payment by such body or  
33 member of all costs and reasonable attorney fees to any party successfully establishing such a

34 violation. The court shall determine the amount of the penalty by taking into account the size  
35 of the jurisdiction, the seriousness of the offense, and whether the public governmental body or  
36 member of a public governmental body has violated sections 610.010 to ~~610.026~~ **610.040**  
37 previously.

38 5. Upon a finding by a preponderance of the evidence that a public governmental body  
39 has violated any provision of sections 610.010 to ~~610.026~~ **610.040**, a court shall void any  
40 action taken in violation of sections 610.010 to ~~610.026~~ **610.040**, if the court finds under the  
41 facts of the particular case that the public interest in the enforcement of the policy of sections  
42 610.010 to ~~610.026~~ **610.040** outweighs the public interest in sustaining the validity of the  
43 action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within  
44 one year from which the violation is ascertainable and in no event shall it be brought later than  
45 two years after the violation. This subsection shall not apply to an action taken regarding the  
46 issuance of bonds or other evidence of indebtedness of a public governmental body if a public  
47 hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

48 6. A public governmental body which is in doubt about the legality of closing a particular  
49 meeting, record or vote may bring suit at the expense of that public governmental body in the  
50 circuit court of the county of the public governmental body's principal place of business to  
51 ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an  
52 attorney for the governmental body.

**610.040. 1. Except as provided in sections 610.100, 610.120, and 610.200 to 610.210,  
2 a public governmental body shall post any proposed rules, ordinances, laws, or regulations  
3 to the public governmental body's website and social media pages, if the public  
4 governmental body maintains a website or social media page, within three business days  
5 after the meeting at which such rules, ordinances, or regulations are proposed, exclusive  
6 of weekends and holidays when the office of the public governmental body is closed. If  
7 notice is posted to the public governmental body's website, a link to the page on the public  
8 governmental body's social media page of the meeting notice shall satisfy the social media  
9 notice requirement of this section.**

10 **2. Except as provided in sections 610.100, 610.120, and 610.200 to 610.210, if a rule,  
11 ordinance, law, or regulation is adopted by the public governmental body, notice of the  
12 adoption and the final text of the rule, ordinance, law, or regulation shall be posted to the  
13 public governmental body's website and social media pages, if the public governmental  
14 body maintains a website or social media page, within three business days of adoption,  
15 exclusive of weekends and holidays when the office of the public governmental body is  
16 closed. If notice is posted to the public governmental body's website, a link to the page on**

17 **the public governmental body's social media page of the meeting notice shall satisfy the**  
18 **social media notice requirement of this section.**

19 **3. Nothing in this section shall be construed to require the publication of proposed**  
20 **or adopted rules, ordinances, laws, or regulations that may be required to be closed under**  
21 **state or federal law.**

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