

FIRST REGULAR SESSION

HOUSE BILL NO. 174

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

0153H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 610.010, 610.025, and 610.029, RSMo, and to enact in lieu thereof three new sections relating to the sunshine law.

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

Section A. Sections 610.010, 610.025, and 610.029, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 610.010, 610.025, and 610.029, to read as follows:

610.010. As used in this chapter, unless the context otherwise indicates, the following terms mean:

(1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote closed to the public;

(2) "Copying", if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) "Public business", all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) "Public governmental body", any legislative, administrative or governmental entity created by the Constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, including but not

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.

16 limited to the administrative entity known as "The Curators of the University of Missouri" as
17 established by section 172.020;

18 (b) Any advisory committee or commission appointed by the governor by executive
19 order;

20 (c) Any department or division of the state, of any political subdivision of the state, of
21 any county or of any municipal government, school district or special purpose district including
22 but not limited to sewer districts, water districts, and other subdistricts of any political
23 subdivision;

24 (d) Any other legislative or administrative governmental deliberative body under the
25 direction of three or more elected or appointed members having rulemaking or quasi-judicial
26 power;

27 (e) Any committee appointed by or at the direction of any of the entities and which is
28 authorized to report to any of the above-named entities, any advisory committee appointed by
29 or at the direction of any of the named entities for the specific purpose of recommending, directly
30 to the public governmental body's governing board or its chief administrative officer, policy or
31 policy revisions or expenditures of public funds including, but not limited to, entities created to
32 advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory
33 body, policy advisory committee or policy advisory group appointed by a president, chancellor
34 or chief executive officer of any college or university system or individual institution at the
35 direction of the governing body of such institution which is supported in whole or in part with
36 state funds for the specific purpose of recommending directly to the public governmental body's
37 governing board or the president, chancellor or chief executive officer policy, policy revisions
38 or expenditures of public funds provided, however, the staff of the college or university
39 president, chancellor or chief executive officer shall not constitute such a policy advisory
40 committee. The custodian of the records of any public governmental body shall maintain a list
41 of the policy advisory committees described in this subdivision;

42 (f) Any quasi-public governmental body. The term "quasi-public governmental body"
43 means any person, corporation or partnership organized or authorized to do business in this state
44 pursuant to the provisions of chapter 352, 353, or 355, or unincorporated association which
45 either:

46 a. Has as its primary purpose to enter into contracts with public governmental bodies,
47 or to engage primarily in activities carried out pursuant to an agreement or agreements with
48 public governmental bodies; or

49 b. Performs a public function as evidenced by a statutorily based capacity to confer or
50 otherwise advance, through approval, recommendation or other means, the allocation or issuance
51 of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the

52 contracting of leaseback agreements on structures whose annualized payments commit public
53 tax revenues; or any association that directly accepts the appropriation of money from a public
54 governmental body, but only to the extent that a meeting, record, or vote relates to such
55 appropriation; and

56 (g) Any bi-state development agency established pursuant to section 70.370;

57 (5) "Public meeting", any meeting of a public governmental body subject to sections
58 610.010 to 610.030 at which any public business is discussed, decided, or public policy
59 formulated, whether such meeting is conducted in person or by means of communication
60 equipment, including, but not limited to, conference call, video conference, internet chat, or
61 internet message board. The term "public meeting" shall not include an informal gathering of
62 members of a public governmental body for ministerial or social purposes when there is no intent
63 to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority
64 of the members of a public governmental body, by electronic communication or any other means,
65 conducted in lieu of holding a public meeting with the members of the public governmental body
66 gathered at one location in order to conduct public business;

67 (6) "Public record", any record, whether written or electronically stored, retained by or
68 of any public governmental body including **the social media pages of a public governmental**
69 **body, including the personal social media pages of the members of such governmental body**
70 **if the personal pages are used to convey information about such governmental body, as**
71 **well as** any report, survey, memorandum, or other document or study prepared for the public
72 governmental body by a consultant or other professional service paid for in whole or in part by
73 public funds, including records created or maintained by private contractors under an agreement
74 with a public governmental body or on behalf of a public governmental body; provided,
75 however, that personally identifiable student records maintained by public educational
76 institutions shall be open for inspection by the parents, guardian or other custodian of students
77 under the age of eighteen years and by the parents, guardian or other custodian and the student
78 if the student is over the age of eighteen years. The term "public record" shall not include any
79 internal memorandum or letter received or prepared by or on behalf of a member of a public
80 governmental body consisting of advice, opinions and recommendations in connection with the
81 deliberative decision-making process of said body, unless such records are retained by the public
82 governmental body or presented at a public meeting. Any document or study prepared for a
83 public governmental body by a consultant or other professional service as described in this
84 subdivision shall be retained by the public governmental body in the same manner as any other
85 public record;

86 (7) "Public vote", any vote, whether conducted in person, by telephone, or by any other
87 electronic means, cast at any public meeting of any public governmental body.

610.025. Any member of a public governmental body who transmits any message relating to public business by electronic means, **including electronic mail, text messaging, direct or private messaging through social media accounts, or messaging through other applications or platforms designed for communication**, shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

610.029. 1. A public governmental body keeping its records in an electronic format ~~is strongly encouraged to~~ **shall** provide access to its public records to members of the public ~~in an electronic format. A public governmental body is strongly encouraged to make information available~~ in usable electronic formats to the greatest extent feasible. A public governmental body shall not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. Such contract shall not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a usable electronic format shall allow, at a minimum, viewing and printing of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this section shall not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means online access or access via other electronic means to an electronic file or database. This subsection shall not apply to contracts initially entered into before August 28, 2004.

2. Public governmental bodies shall include in a contract for electronic services provisions that:

(1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and

(2) Limit the liability of the public governmental body providing the services.

3. Each public governmental body may consult with the information technology services division of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.