

FIRST REGULAR SESSION

SENATE BILL NO. 166

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Pre-filed December 10, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0881S.011

AN ACT

To repeal sections 386.480 and 610.021, RSMo, and to enact in lieu thereof two new sections relating to records submitted to the public service commission, with existing penalty provisions.

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

Section A. Sections 386.480 and 610.021, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 386.480 and 610.021, to read as follows:

386.480. **1.** No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. The public counsel shall have full and complete access to public service commission files and records, **except as limited by this section.** Any officer or employee of the commission or the public counsel or any employee of the public counsel who, in violation of the provisions of this section, divulges any such information shall be guilty of a misdemeanor.

2. Records under subdivision (25) of section 610.021 shall not be made available to the public counsel if doing so would threaten public safety, as determined by the commission. However, such records related to infrastructure security or cybersecurity may be released to the director of the Missouri Information Analysis Center (MIAC) or his or her designee.

610.021. Except to the extent disclosure is otherwise required by law, a

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

2 public governmental body is authorized to close meetings, records and votes, to
3 the extent they relate to the following:

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

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

27 (3) Hiring, firing, disciplining or promoting of particular employees by a
28 public governmental body when personal information about the employee is
29 discussed or recorded. However, any vote on a final decision, when taken by a
30 public governmental body, to hire, fire, promote or discipline an employee of a
31 public governmental body shall be made available with a record of how each
32 member voted to the public within seventy-two hours of the close of the meeting
33 where such action occurs; provided, however, that any employee so affected shall
34 be entitled to prompt notice of such decision during the seventy-two-hour period
35 before such decision is made available to the public. As used in this subdivision,
36 the term "personal information" means information relating to the performance
37 or merit of individual employees;

- 38 (4) The state militia or national guard or any part thereof;
- 39 (5) Nonjudicial mental or physical health proceedings involving
40 identifiable persons, including medical, psychiatric, psychological, or alcoholism
41 or drug dependency diagnosis or treatment;
- 42 (6) Scholastic probation, expulsion, or graduation of identifiable
43 individuals, including records of individual test or examination scores; however,
44 personally identifiable student records maintained by public educational
45 institutions shall be open for inspection by the parents, guardian or other
46 custodian of students under the age of eighteen years and by the parents,
47 guardian or other custodian and the student if the student is over the age of
48 eighteen years;
- 49 (7) Testing and examination materials, before the test or examination is
50 given or, if it is to be given again, before so given again;
- 51 (8) Welfare cases of identifiable individuals;
- 52 (9) Preparation, including any discussions or work product, on behalf of
53 a public governmental body or its representatives for negotiations with employee
54 groups;
- 55 (10) Software codes for electronic data processing and documentation
56 thereof;
- 57 (11) Specifications for competitive bidding, until either the specifications
58 are officially approved by the public governmental body or the specifications are
59 published for bid;
- 60 (12) Sealed bids and related documents, until the bids are opened; and
61 sealed proposals and related documents or any documents related to a negotiated
62 contract until a contract is executed, or all proposals are rejected;
- 63 (13) Individually identifiable personnel records, performance ratings or
64 records pertaining to employees or applicants for employment, except that this
65 exemption shall not apply to the names, positions, salaries and lengths of service
66 of officers and employees of public agencies once they are employed as such, and
67 the names of private sources donating or contributing money to the salary of a
68 chancellor or president at all public colleges and universities in the state of
69 Missouri and the amount of money contributed by the source;
- 70 (14) Records which are protected from disclosure by law;
- 71 (15) Meetings and public records relating to scientific and technological
72 innovations in which the owner has a proprietary interest;
- 73 (16) Records relating to municipal hotlines established for the reporting

74 of abuse and wrongdoing;

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

79 (18) Operational guidelines, policies and specific response plans
80 developed, adopted, or maintained by any public agency responsible for law
81 enforcement, public safety, first response, or public health for use in responding
82 to or preventing any critical incident which is or appears to be terrorist in nature
83 and which has the potential to endanger individual or public safety or
84 health. Financial records related to the procurement of or expenditures relating
85 to operational guidelines, policies or plans purchased with public funds shall be
86 open. When seeking to close information pursuant to this exception, the public
87 governmental body shall affirmatively state in writing that disclosure would
88 impair the public governmental body's ability to protect the security or safety of
89 persons or real property, and shall in the same writing state that the public
90 interest in nondisclosure outweighs the public interest in disclosure of the
91 records;

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

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

100 (b) When seeking to close information pursuant to this exception, the
101 public governmental body shall affirmatively state in writing that disclosure
102 would impair the public governmental body's ability to protect the security or
103 safety of persons or real property, and shall in the same writing state that the
104 public interest in nondisclosure outweighs the public interest in disclosure of the
105 records;

106 (c) Records that are voluntarily submitted by a nonpublic entity shall be
107 reviewed by the receiving agency within ninety days of submission to determine
108 if retention of the document is necessary in furtherance of a state security
109 interest. If retention is not necessary, the documents shall be returned to the

110 nonpublic governmental body or destroyed;

111 (20) The portion of a record that identifies security systems or access
112 codes or authorization codes for security systems of real property;

113 (21) Records that identify the configuration of components or the
114 operation of a computer, computer system, computer network, or
115 telecommunications network, and would allow unauthorized access to or unlawful
116 disruption of a computer, computer system, computer network, or
117 telecommunications network of a public governmental body. This exception shall
118 not be used to limit or deny access to otherwise public records in a file, document,
119 data file or database containing public records. Records related to the
120 procurement of or expenditures relating to such computer, computer system,
121 computer network, or telecommunications network, including the amount of
122 moneys paid by, or on behalf of, a public governmental body for such computer,
123 computer system, computer network, or telecommunications network shall be
124 open;

125 (22) Credit card numbers, personal identification numbers, digital
126 certificates, physical and virtual keys, access codes or authorization codes that
127 are used to protect the security of electronic transactions between a public
128 governmental body and a person or entity doing business with a public
129 governmental body. Nothing in this section shall be deemed to close the record
130 of a person or entity using a credit card held in the name of a public
131 governmental body or any record of a transaction made by a person using a credit
132 card or other method of payment for which reimbursement is made by a public
133 governmental body;

134 (23) Records submitted by an individual, corporation, or other business
135 entity to a public institution of higher education in connection with a proposal to
136 license intellectual property or perform sponsored research and which contains
137 sales projections or other business plan information the disclosure of which may
138 endanger the competitiveness of a business; [and]

139 (24) Records relating to foster home or kinship placements of children in
140 foster care under section 210.498; and

141 **(25) Records submitted by a person, corporation, public utility,**
142 **or other entity to the public service commission:**

143 **(a) That identify an existing or proposed computer, computer**
144 **system, computer network, telecommunication network, or system**
145 **configuration, the public disclosure of which could allow unauthorized**

146 access to or unlawful disruption of a computer, computer system,
147 computer network, or telecommunication network or system
148 configuration used or proposed for use in providing utility services;

149 (b) Relating to unauthorized attempts to access or disrupt any
150 infrastructure, plant, real property, computer, computer system,
151 computer network, or telecommunications network or system
152 configuration used or proposed for use in providing utility services;

153 (c) That identify existing or proposed security systems and
154 structural plans of any infrastructure, plant or real property used or
155 proposed for use in providing utility services, the public disclosure of
156 which would threaten the security of that infrastructure.

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Bill

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