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Missouri State Auditor

Summary of State and Local Audit Findings - Sunshine Law



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Missouri State Auditor

CITIZENS SUMMARY

Summary of State and Local Audit Findings - Sunshine Law

Background	This report was compiled using the nearly 300 audit reports issued between January 2012 and December 2013. The objective of this report was to summarize recent audit issues and recommendations regarding the Sunshine Law, Chapter 610, RSMo, and other issues related to meeting minutes.
Open Meetings	Formal meeting minutes were not prepared or maintained for some open meetings, and minutes maintained did not always include sufficient detail. Minutes of affiliated boards, committees and commissions were not always prepared or maintained by the custodian of records. Several entities failed to document the reasons for closing meetings, the specific section of law that allowed for the closing, and the votes regarding meeting closure. Minutes were not always approved timely and some entities conducted business outside of regular open meetings.
Closed Meetings	Minutes were not prepared or maintained for some closed meetings, and minutes maintained did not always include sufficient detail. Several entities did not document how some issues discussed in closed meetings were allowable under state law, and some discussed issues other than the specific reasons cited for going into closed session or issues discussed were not allowable. Some governing bodies did not always publicly disclose the final disposition of applicable matters discussed in closed sessions.
Public Records	Some governing bodies did not have adequate policies and procedures regarding public access to records, and some did not maintain sufficient documentation to demonstrate compliance with the law.
Meeting Agendas	Some entities did not prepare, post, and/or retain tentative agendas, or the agendas did not disclose sufficient information. Also, open meeting agendas routinely indicate the potential for a closed meeting, and all topics listed on the agendas were not routinely discussed.
Legislative Issues	Neither the Missouri House of Representatives nor the Missouri Senate considers the Sunshine Law applicable to records of individual members. The Missouri Employers Mutual Insurance Company (MEM) contends it is neither a public governmental body nor a quasi-public governmental body for purposes of the Sunshine Law, but it was formed under state statutes subject to the Sunshine Law. We recommend the General Assembly amend the law to apply to individual legislators while carving out legitimate and necessary exceptions and determine whether the MEM is subject to the Sunshine Law.

Because of the limited objective of this review, no overall rating is provided.

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THOMAS A. SCHWEICH

Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Honorable Chris Koster, Attorney General
and
Members of the General Assembly
Jefferson City, Missouri

This report was compiled using audit reports issued between January 2012 and December 2013 (report numbers 2012-001 through 2012-146 and 2013-001 through 2013-150). The objective of this report was to summarize recent audit issues and recommendations regarding the Sunshine Law, Chapter 610, RSMo, and other issues related to meeting minutes.

Recommendations address a variety of topics including open and closed meetings, public records, meeting agendas, and legislative issues. These topics were addressed in 44 reports issued between January 2012 and December 2013. Appendix A provides a list of each report, and the publication date, that included the issues presented.

A handwritten signature in black ink that reads "Thomas A. Schweich".

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

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Summary of State and Local Audit Findings - Sunshine Law Audit Issues

1. Open Meetings

1.1 Preparation of meeting minutes	<p>Formal meeting minutes were not prepared or maintained for some open meetings. In addition, minutes and records of meetings of affiliated boards, committees, and commissions were not always prepared. Further, copies of minutes and records of the affiliated boards, committees, and commissions were not maintained by the official custodian of records of the governing body.</p> <p>Section 610.020, RSMo, provides that minutes of open meetings shall be taken and retained by the public governmental body.</p>
Recommendation	<p>Ensure minutes are prepared and retained to support all open meetings, including affiliated boards, committees, and commissions, and copies are maintained by the official custodian of records of the governing body.</p>
Report source	<p>2013-135 (Public Safety/Office of the Director) 2013-085 (St. Louis Public School District) 2013-025 (General Assembly and Supporting Functions/House of Representatives) 2013-007 (City of Diamond) 2012-069 (Chariton County) 2012-016 (The School District of Springfield, R-XII)</p>
1.2 Detail in meeting minutes	<p>Meeting minutes did not always include sufficient detail of matters discussed or actions taken, and many decisions were not adequately documented in the meeting minutes.</p> <p>Section 610.020, RSMo, requires minutes of meetings include the date, time, place, members present, members absent, and a record of votes taken.</p>
Recommendation	<p>Ensure meeting minutes include adequate detail of the issues discussed and the decisions made.</p>
Report source	<p>2013-135 (Public Safety/Office of the Director) 2013-127 (City of Savannah) 2013-066 (Village of Deerfield) 2013-007 (City of Diamond) 2012-126 (Polk County)</p>
1.3 Reasons for closing meetings	<p>Reasons for closing meetings, the specific section of law that allows for the closed meetings and the vote to close the meetings were not adequately documented within the open meeting minutes.</p>



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Section 610.022, RSMo, requires that before any meeting may be closed, the question of holding the closed meeting and the reason for the closed meeting shall be voted on during an open meeting.

Recommendation

Ensure the vote to close a meeting is documented in the open meeting minutes, along with the reason for closing the meeting and the specific section of law that allows the meeting to be closed.

Report source

2013-131 (Gentry County)
2013-127 (City of Savannah)
2013-103 (Ste. Genevieve County)
2013-098 (City of Liberal)
2013-062 (Southern Dallas County Fire Protection District)
2013-051 (Daviess County)
2013-034 (City of Brentwood)
2013-033 (Department of Public Safety/State Emergency Management Agency)
2013-022 (City of Buckner)
2013-007 (City of Diamond)
2013-003 (Cedar County)
2013-002 (Caldwell County)
2012-145 (McDonald County)
2012-133 (Lake Lotawana Community Improvement District)
2012-127 (Vernon County)
2012-125 (Montgomery County)
2012-082 (Kansas City Board of Police Commissioners)
2012-068 (Clark County)
2012-040 (Stone County)
2012-016 (The School District of Springfield, R-XII)
2012-008 (Monarch Fire Protection District)
2012-007 (Natural Resources/Soil and Water Conservation Program)
2012-005 (Higher Education/Southeast Missouri State University)
2012-001 (Madison County)

1.4 Open meeting

Business was conducted outside of regular open meetings.

Section 610.020, RSMo, provides that governing bodies of all political subdivisions are required to conduct business in regular open meetings. Any time a quorum of board members meet in person or by phone and transact public business, they are subject to the Sunshine Law.

Recommendation

Ensure business of the governing body is conducted in compliance with the Sunshine Law.

Report source

2013-066 (Village of Deerfield)
2012-016 (The School District of Springfield, R-XII)



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1.5 Approval of minutes

Meeting minutes were not always reviewed and approved in a timely manner.

To ensure all decisions are properly documented and minutes are properly maintained, all minutes should be reviewed and approved timely.

Recommendation

Ensure meeting minutes are properly and timely reviewed and approved for all meetings.

Report source

2013-085 (St. Louis Public School District)
2012-126 (Polk County)
2012-069 (Chariton County)

2. Closed Meetings

2.1 Preparation of meeting minutes

Minutes were not prepared or maintained for some closed meetings.

Section 610.020, RSMo, provides that minutes of closed meetings shall be taken and retained by the public governmental body.

Recommendation

Ensure minutes are prepared and retained to support all closed meetings.

Report source

2013-131 (Gentry County)
2013-127 (City of Savannah)
2013-103 (Ste. Genevieve County)
2013-083 (Crowder College)
2013-068 (Crawford County)
2013-034 (City of Brentwood)
2013-022 (City of Buckner)
2013-007 (City of Diamond)
2013-002 (Caldwell County)
2012-145 (McDonald County)
2012-133 (Lake Lotawana Community Improvement District)
2012-130 (Village of Altamont)
2012-127 (Vernon County)
2012-118 (Benton County)
2012-109 (Lawrence County)
2012-061 (Wright County)
2012-040 (Stone County)
2012-004 (Nodaway County)

2.2 Detail in meeting minutes

Closed meeting minutes did not include sufficient details of discussions held and decisions made, and votes or final actions, if any, taken by the governing body during closed meetings.



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Such documentation is important to both demonstrate compliance with statutory provisions and provide information for future reference should concerns or questions be raised regarding topics addressed in closed meetings. Sections 610.020 and 610.021, RSMo, provide requirements regarding closure of meetings and documentation.

Recommendation

Ensure closed meeting minutes include the information necessary to provide a complete record of all significant matters discussed and actions taken.

Report source

2012-130 (Village of Altamont)
2012-125 (Montgomery County)
2012-016 (The School District of Springfield, R-XII)

2.3 Allowable topics

The governing body did not document how some issues discussed in closed meetings were allowable under state law and some issues discussed during closed meetings were not allowable.

Chapter 610.021, RSMo, states the specific reasons governmental bodies are allowed to close a public meeting.

Recommendation

Ensure items discussed in closed meetings are allowed by state law.

Report source

2013-139 (City of Bolivar)
2013-127 (City of Savannah)
2013-103 (Ste. Genevieve County)
2013-098 (City of Liberal)
2013-085 (St. Louis Public School District)
2013-068 (Crawford County)
2013-051 (Daviess County)
2013-007 (City of Diamond)
2013-003 (Cedar County)
2013-002 (Caldwell County)
2012-141 (Revenue/Missouri State Lottery Commission)
2012-130 (Village of Altamont)
2012-082 (Kansas City Board of Police Commissioners)
2012-068 (Clark County)
2012-058 (Putnam County)
2012-016 (The School District of Springfield, R-XII)
2012-008 (Monarch Fire Protection District)
2012-005 (Higher Education/Southeast Missouri State University)
2012-001 (Madison County)

2.4 Topics discussed

Some topics discussed during closed meetings were other than the specific reasons cited for going into closed meeting.



Summary of State and Local Audit Findings - Sunshine Law Audit Issues

Section 610.022, RSMo, requires a closed meeting, record, or vote to be held only for the specific reasons announced publicly at an open session. In addition, this law provides that public governmental bodies shall not discuss any other business during the meeting that differs from the specific reason used to justify such meeting, record, or vote.

Recommendation

Limit issues discussed in closed meetings to only those specific reasons cited to justify the closed meeting.

Report source

2013-131 (Gentry County)
2013-127 (City of Savannah)
2013-003 (Cedar County)
2013-002 (Caldwell County)
2012-141 (Revenue/Missouri State Lottery Commission)
2012-082 (Kansas City Board of Police Commissioners)
2012-058 (Putnam County)
2012-016 (The School District of Springfield, R-XII)

2.5 Publication of final disposition

Some governing bodies did not always publicly disclose the final disposition of applicable matters discussed in closed sessions.

Section 610.021, RSMo, requires the final disposition of certain matters discussed in closed session to be made public.

Recommendation

Ensure matters discussed and actions taken in closed meetings are properly made available to the public, as required by law.

Report source

2013-085 (St. Louis Public School District)
2012-082 (Kansas City Board of Police Commissioners)

3. Public Records

3.1 Public access policy

The government did not have adequate policies and procedures regarding public access to records or the policy was not in compliance with state law. Additionally, the government did not maintain complete and detailed documentation to support the rates charged for providing copies of public records, and fees charged were not consistently applied.

Section 610.026, RSMo, describes the allowable fees for copying public records, and Section 610.023, RSMo, lists requirements of making records available to the public.

Recommendation

Establish adequate written policies and procedures regarding public access to and/or copies of records to ensure compliance with state law.



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Report source 2013-140 (Public Water Supply District #1 of Carroll County)
2013-139 (City of Bolivar)
2013-066 (Village of Deerfield)
2013-062 (Southern Dallas County Fire Protection District)
2013-049 (Pike County)
2012-016 (The School District of Springfield, R-XII)

**3.2 Documentation of
requests for records**

The government did not maintain a record documenting information requests received, if any, or copies of records provided; therefore, the proper handling of any Sunshine Law information requests could not be determined.

Section 610.023, RSMo, provides each request for access to public records shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request was received.

Recommendation

Maintain a public request log to help ensure compliance with state law.

Report source

2012-016 (The School District of Springfield, R-XII)
2012-008 (Monarch Fire Protection District)

4. Meeting Agendas

4.1 Agenda preparation

A tentative agenda was not prepared, posted, and/or retained for all meetings or the agenda did not disclose sufficient information pertaining to the upcoming meeting.

Section 610.020, RSMo, requires public entities to give notice of the time, date, and place of each meeting, and its tentative agenda, to advise the public of matters to be considered. The notice shall be given at least 24 hours prior to the meeting.

Recommendation

Ensure proper notification and agendas for public meetings are given and sufficiently detailed or reasons for any deviation are documented in the meeting minutes in accordance with state law.

Report source

2013-098 (City of Liberal)
2013-066 (Village of Deerfield)
2013-062 (Southern Dallas County Fire Protection District)
2013-033 (Department of Public Safety/State Emergency Management Agency)
2013-007 (City of Diamond)
2012-016 (The School District of Springfield, R-XII)



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4.2 Closed meeting notices Open meeting agendas routinely used the same statement to indicate the potential for a closed meeting, and all topics listed on the agendas were routinely not discussed.

Section 610.022, RSMo, requires the specific reasons for closing a meeting be announced publicly at an open meeting and entered into the minutes. A blanket statement which includes a potential issue(s) that may be discussed in a closed session appears to circumvent the intent of the law.

Recommendation Ensure agendas state the specific reasons for going into a closed meeting.

Report source 2013-127 (City of Savannah)
2012-005 (Higher Education/Southeast Missouri State University)

5. Legislative Issues

5.1 General Assembly The Missouri House of Representatives and the Missouri Senate do not consider the Sunshine Law applicable to records of individual members. The law related to this matter is ambiguous and no Missouri court has ruled on this specific issue. We are cognizant of the need to keep certain records confidential; however, correspondence clearly relating to the conduct of public business should be subject to public scrutiny.

Section 610.010(4), RSMo, defines a "public governmental body," in part, as, any legislative, administrative or governmental entity created by the Missouri Constitution or statutes of the state. The Sunshine Law defines a "public record," in part, as, any record whether written or electronically stored, retained by or of any public governmental body including any report, memorandum, or other document. Section 610.025, RSMo, also provides that any message relating to public business by electronic means should be concurrently transmitted to either the member's public office computer or the custodian of records in the same format.

Recommendation The General Assembly amend the Sunshine Law so that it clearly applies to individual members while carving out legitimate and necessary exceptions to public disclosure.

Report source 2013-026 (General Assembly and Supporting Functions/Senate)
2013-025 (General Assembly and Supporting Functions/House of Representatives)

5.2 Missouri Employers Mutual Insurance Company (MEM) The MEM contends it is neither a public governmental body nor a quasi-public governmental body for the purposes of the Sunshine Law; however, the MEM was formed under state statutes subject to the Sunshine Law.



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Section 610.010(4), RSMo, defines a public governmental body as any governmental entity created by statute when operating in an administrative capacity. Section 610.010(4)(f), RSMo, defines a quasi-public governmental body as any corporation authorized to do business pursuant to Chapters 352, 353 or 355 of the Missouri statutes, or performs a public function as evidenced by a statutorily based capacity. Section 287.902, RSMo, states that MEM was created to insure Missouri employers against liability from workers' compensation liability and ". . . shall have the powers granted a general-not-for-profit company pursuant to Section 355.090, RSMo, . . .".

Recommendation

The General Assembly determine whether the MEM is subject to the Sunshine Law and/or clarify state law as deemed appropriate.

Report source

2012-011 (Missouri Employers Mutual Insurance Company)

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Appendix A

Audit Reports

Report Number	Title	Publication Date
2012-001	Madison County	January 2012
2012-004	Nodaway County	February 2012
2012-005	Higher Education/Southeast Missouri State University	February 2012
2012-007	Natural Resources/Soil and Water Conservation Program	February 2012
2012-008	Monarch Fire Protection District	February 2012
2012-011	Missouri Employers Mutual Insurance Company	February 2012
2012-016	The School District of Springfield, R-XII	March 2012
2012-040	Stone County	May 2012
2012-058	Putnam County	June 2012
2012-061	Wright County	June 2012
2012-068	Clark County	July 2012
2012-069	Chariton County	July 2012
2012-082	Kansas City Board of Police Commissioners	August 2012
2012-109	Lawrence County	September 2012
2012-118	Benton County	October 2012
2012-125	Montgomery County	October 2012
2012-126	Polk County	October 2012
2012-127	Vernon County	October 2012
2012-130	Village of Altamont	October 2012
2012-133	Lake Lotawana Community Improvement District	October 2012
2012-141	Revenue/Missouri State Lottery Commission	November 2012
2012-145	McDonald County	December 2012
2013-002	Caldwell County	January 2013
2013-003	Cedar County	January 2013
2013-007	City of Diamond	January 2013
2013-022	City of Buckner	March 2013
2013-025	General Assembly and Supporting Functions/House of Representatives	March 2013
2013-026	General Assembly and Supporting Functions/Senate	March 2013
2013-033	Department of Public Safety/State Emergency Management Agency	April 2013
2013-034	City of Brentwood	May 2013
2013-049	Pike County	June 2013
2013-051	Daviess County	June 2013
2013-062	Southern Dallas County Fire Protection District	August 2013
2013-066	Village of Deerfield	August 2013
2013-068	Crawford County	August 2013
2013-083	Crowder College	August 2013
2013-085	St. Louis Public School District	September 2013
2013-098	City of Liberal	October 2013
2013-103	Ste. Genevieve County	October 2013
2013-127	City of Savannah	November 2013
2013-131	Gentry County	November 2013
2013-135	Public Safety/Office of the Director	December 2013
2013-139	City of Bolivar	December 2013
2013-140	Public Water Supply District #1 of Carroll County	December 2013

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Appendix B

Chapter 610 Governmental Bodies and Records

Notice of meetings, when required--recording of meetings to be allowed, guidelines, penalty--accessibility of meetings--minutes of meetings to be kept, content--voting records to be included

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 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.

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

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

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



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

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

7. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body.

**Closed meetings and
closed records authorized
when, exceptions**

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;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal



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consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

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

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

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

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

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

(8) Welfare cases of identifiable individuals;

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

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



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- (11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;
- (12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;
- (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;
- (14) Records which are protected from disclosure by law;
- (15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;
- (16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
- (17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;
- (18) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
- (19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information



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that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

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

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

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

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

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

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



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

Closed meetings, procedure and limitation--public records presumed open unless exempt--objections to closing meetings or records, procedure

610.022. 1. Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

2. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.

3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

4. Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.

5. Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.

6. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in this chapter, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an



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objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to section 610.027.

Records of governmental bodies to be in care of custodian, duties--records may be copied but not removed, exception, procedure--denial of access, procedure

610.023. 1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.

2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

Electronic transmission of messages relating to public business, requirements

610.025. Any member of a public governmental body who transmits any message relating to public business by electronic means 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



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member's office computer shall be a public record subject to the exceptions of section 610.021.

Fees for copying public records, limitations--fee money remitted to whom--tax, license or fee as used in Missouri Constitution article X, section 22, not to include copying fees

610.026. 1. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

(1) Fees for copying public records, except those records restricted under section 32.091, shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

(2) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

2. Payment of such copying fees may be requested prior to the making of copies.

3. Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.



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4. Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.

5. The term "tax, license or fees" as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.