

## HB 600 -- Open Records and Meetings Law

Sponsor: Kelly (45)

This bill changes the laws regarding the Open Records and Meetings Law, commonly known as the Sunshine Law. The bill specifies that any lease, sublease, rental agreement, or similar instrument entered into by any public governmental body or any other agreement for the rental, construction, or renovation of the facility must be a public record. Reasonable notice of meetings of public governmental bodies must include making available copies of the notice to any member of the public who requests notice of meetings of a particular public governmental body when the notice is made available to the members of that body. All public governmental bodies must give notice of the time, date, and place of each meeting, and its tentative agenda at least 48 hours, or in the case of the General Assembly and any of its committees 24 hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of the meeting unless for good cause as specified in the minutes.

The minutes of a closed meeting must contain a list of the subjects discussed but are not required to disclose records or votes that are properly closed under Section 610.021, RSMo.

Public disclosure of legal work product in an open meeting must be made orally or in writing, or both, and must occur at the next scheduled open meeting of the public body or at the resumption of a recessed or subsequent open meeting, whatever is applicable soonest to the time lines for disclosure as specified under these provisions. A body must have received evidence that a lawsuit has been filed, although not yet served, or have actual correspondence from a party stating that litigation will be filed under certain circumstances before it closes meetings, records, and votes due to a cause of action.

The bill changes the provisions regarding when a public governmental body is authorized to close meetings, records and votes to remove meetings that pertain to the state militia or National Guard and to include:

(1) Deliberations and votes by the board of trustees of the Missouri Petroleum Storage Tank Insurance Fund concerning denial of an application to participate in a state insurance trust fund or denial of a claim for reimbursement from the fund if that the disposition of the matter, including the amount of any moneys paid from the fund, must be disclosed as required by these provisions;

(2) 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 that is or appears to be terrorist in nature and that 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 must be open. When seeking to close information regarding this exception, the public governmental body must 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 that the public interest in nondisclosure outweighs the public interest in disclosure of the records; and

(3) Any portion of a record that identifies security systems, access codes, or authorization codes for security systems of real property.

The bill extends, from December 31, 2012, to December 31, 2017, the expiration date of the provisions regarding the exemption from the law for existing or proposed security systems and structural plans of real property owned or leased by a public governmental body and information 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 the protection of that infrastructure, the public disclosure of which would threaten public safety.

Only members of a public governmental body, their attorney and staff assistants, and any other person necessary to provide information needed by or requested by the public governmental body with regard to the matter being discussed are permitted in a closed meeting. Each custodian of a public governmental body is encouraged to create and maintain an index of all public records maintained by that body.

In any legal proceeding there must be a presumption that a meeting, record, or vote is open to the public and the burden is on the public governmental body or one of its members to prove that the meeting, record or vote can be closed to the public.

Currently, upon a finding by a preponderance of the evidence that a public governmental body or a member of a public government body has knowingly violated Section 610.010 to 610.026, the body or member will be subject to a civil penalty of up to \$1,000 and the court may order the payment by the body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court must determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness

of the offense, and whether the body or member has previous violations. The bill specifies that upon a finding by a preponderance of the evidence that a body or member has violated the provisions, the body or member must be subject to a civil penalty of \$100. If the court finds that there is a violation, the court must order the payment by the body or may order the payment by the member of all costs and reasonable attorney fees to any party successfully establishing a violation. In making this determination of reasonable attorney fees, the court must take into account the size of the jurisdiction and its annual operating budget and other revenue sources.

The provisions of the bill regarding public records relating to public agency plans to prevent and respond to possible terrorist incidents and to protect security system plans for certain critical public and private buildings and facilities contain an emergency clause.