

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 732, Page 29,
2 Section 590.040, Line 53, by inserting after all of said section and line the following:
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4 "610.020. 1. All public governmental bodies shall give notice of the time, date, and place
5 of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of
6 the matters to be considered, and if the meeting will be conducted by telephone or other electronic
7 means, the notice of the meeting shall identify the mode by which the meeting will be conducted
8 and the designated location where the public may observe and attend the meeting. If a public body
9 plans to meet by internet chat, internet message board, or other computer link, it shall post a notice
10 of the meeting on its website in addition to its principal office and shall notify the public how to
11 access that meeting. Reasonable notice shall include making available copies of the notice to any
12 member of the public or representative of the news media who requests notice of meetings of a
13 particular public governmental body concurrent with the notice being made available to the
14 members of the particular governmental body and posting the notice on a bulletin board or other
15 prominent place which is easily accessible to the public and clearly designated for that purpose at
16 the principal office of the body holding the meeting, or if no such office exists, at the building in
17 which the meeting is to be held.

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

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

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

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

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

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

9 7. A journal or minutes of open and closed meetings shall be taken and retained by the
10 public governmental body, including, but not limited to, a record of any votes taken at such
11 meeting. The minutes shall include, but not be limited to, the date, time, place, members present,
12 members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall
13 attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member
14 of the public governmental body. No action may be taken by a public body without a vote, either by
15 roll call or by voice vote, under the provisions of this subsection.

16 610.021. Except to the extent disclosure is otherwise required by law, a public governmental
17 body is authorized to close meetings, records and votes, to the extent they relate to the following:

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

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

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

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

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

1 treatment;

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

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

9 (8) Welfare cases of identifiable individuals;

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

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

13 (11) Specifications for competitive bidding, until either the specifications are officially
14 approved by the public governmental body or the specifications are published for bid;

15 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals and
16 related documents or any documents related to a negotiated contract until a contract is executed, or
17 all proposals are rejected;

18 (13) Individually identifiable personnel records, performance ratings or records pertaining
19 to employees or applicants for employment, except that this exemption shall not apply to the names,
20 positions, salaries and lengths of service of officers and employees of public agencies once they are
21 employed as such, and the names of private sources donating or contributing money to the salary of
22 a chancellor or president at all public colleges and universities in the state of Missouri and the
23 amount of money contributed by the source;

24 (14) Records which are protected from disclosure by law;

25 (15) Meetings and public records relating to scientific and technological innovations in
26 which the owner has a proprietary interest;

27 (16) Records relating to municipal hotlines established for the reporting of abuse and
28 wrongdoing;

29 (17) Confidential or privileged communications between a public governmental body and
30 its auditor, including all auditor work product; however, notwithstanding the provisions of this
31 chapter, any record retained by or of the state auditor relating to an audit conducted under
32 subsection 2 of section 29.230, not otherwise a closed record under this chapter, shall be considered
33 an open record upon issuance of the final audit report. All final audit reports issued by the auditor
34 are to be considered open records pursuant to this chapter;

35 (18) Operational guidelines, policies and specific response plans developed, adopted, or
36 maintained by any public agency responsible for law enforcement, public safety, first response, or
37 public health for use in responding to or preventing any critical incident which is or appears to be
38 terrorist in nature and which has the potential to endanger individual or public safety or health.
39 Financial records related to the procurement of or expenditures relating to operational guidelines,
40 policies or plans purchased with public funds shall be open. When seeking to close information
41 pursuant to this exception, the public governmental body shall affirmatively state in writing that
42 disclosure would impair the public governmental body's ability to protect the security or safety of
43 persons or real property, and shall in the same writing state that the public interest in nondisclosure
44 outweighs the public interest in disclosure of the records;

45 (19) Existing or proposed security systems and structural plans of real property owned or
46 leased by a public governmental body, and information that is voluntarily submitted by a nonpublic
47 entity owning or operating an infrastructure to any public governmental body for use by that body
48 to devise plans for protection of that infrastructure, the public disclosure of which would threaten

1 public safety:

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

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

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

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

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

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

31 (23) Records submitted by an individual, corporation, or other business entity to a public
32 institution of higher education in connection with a proposal to license intellectual property or
33 perform sponsored research and which contains sales projections or other business plan information
34 the disclosure of which may endanger the competitiveness of a business, except the name of the
35 individual, corporation, or other business entity and the amount of any public funding provided to
36 such individual, corporation, or other business entity by the public institution of higher education
37 shall be deemed as records open for public inspection.

38 610.022. 1. Except as set forth in subsection 2 of this section, no meeting or vote may be
39 closed without an affirmative public vote of the majority of a quorum of the public governmental
40 body. The vote of each member of the public governmental body on the question of closing a
41 public meeting or vote and the specific reason for closing that public meeting or vote by reference
42 to a specific section of this chapter shall be announced publicly at an open meeting of the
43 governmental body and entered into the minutes.

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

48 3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent

1 necessary for the specific reason announced to justify the closed meeting or vote. Other than
 2 members of a public governmental body and their attorney and staff assistants, only persons
 3 necessary to provide information needed by or requested by the public governmental body in regard
 4 to the matter being discussed shall be permitted in a closed meeting. Public governmental bodies
 5 shall not discuss any business in a closed meeting, record or vote which does not directly relate to
 6 the specific reason announced to justify the closed meeting or vote. Public governmental bodies
 7 holding a closed meeting shall close only an existing portion of the meeting facility necessary to
 8 house the members of the public governmental body in the closed session, allowing members of the
 9 public to remain to attend any subsequent open session held by the public governmental body
 10 following the closed session.

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

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

15 6. In the event any member of a public governmental body makes a motion to close a
 16 meeting, or a record, or a vote from the public and any other member believes that such motion, if
 17 passed, would cause a meeting, record or vote to be closed from the public in violation of any
 18 provision in this chapter, such latter member shall state his or her objection to the motion at or
 19 before the time the vote is taken on the motion. The public governmental body shall enter in the
 20 minutes of the public governmental body any objection made pursuant to this subsection. Any
 21 member making such an objection shall be allowed to fully participate in any meeting, record or
 22 vote that is closed from the public over the member's objection. In the event the objecting member
 23 also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and
 24 vote of the member as entered in the minutes shall be an absolute defense to any claim filed against
 25 the objecting member pursuant to section 610.027.

26 610.025. Any member of a public governmental body who transmits any message relating
 27 to public business by electronic means, including by a mobile communication device, shall also
 28 concurrently transmit that message to either the member's public office computer or the custodian of
 29 records in the same format. The provisions of this section shall only apply to messages sent to two
 30 or more members of that body so that, when counting the sender, a majority of the body's members
 31 [are] is copied. Any such message received by the custodian or at the member's office computer
 32 shall be a public record subject to the exceptions of section 610.021. As used in this section,
 33 "mobile communication device" includes, but is not limited to, any cellular phone or other mobile
 34 electronic device able to send email or other electronic data transmission."; and

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 36 Further amend said bill, Section 610.026, Page 29, Lines 13-15, by deleting all of said lines and
 37 inserting in lieu thereof the following:

38
 39 "Documents may be furnished without charge or at a reduced charge when the public governmental
 40 body determines that waiver or reduction of the fee is"; and

41
 42 Further amend said bill and section, Page 30, Line 46, by inserting after all of said section and line
 43 the following:

44
 45 "610.027. 1. The remedies provided by this section against public governmental bodies
 46 shall be in addition to those provided by any other provision of law. Any aggrieved person,
 47 taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek
 48 judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections

1 610.010 to 610.026 shall be brought in the circuit court for the county in which the public
2 governmental body has its principal place of business. Upon service of a summons, petition,
3 complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of
4 sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such
5 civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought
6 to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section
7 610.021 or the assertion that the requested record is not a public record until the court directs
8 otherwise.

9 2. [Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates
10 to the court that the body in question is subject to the requirements of sections 610.010 to 610.026
11 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its
12 members to demonstrate compliance with the requirements of sections 610.010 to 610.026.] In any
13 legal proceeding, there shall be a presumption that a meeting, record, or vote is open to the public.
14 The burden shall be on a public governmental body or a member of a public governmental body to
15 prove that such meeting, record, or vote may be closed to the public.

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

25 4. Upon a finding by a preponderance of the evidence that a public governmental body or a
26 member of a public governmental body has purposely violated sections 610.010 to 610.026, the
27 public governmental body or the member shall be subject to a civil penalty in an amount up to five
28 thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to
29 610.026, then the court shall order the payment by such body or member of all costs and reasonable
30 attorney fees to any party successfully establishing such a violation. The court shall determine the
31 amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the
32 offense, and whether the public governmental body or member of a public governmental body has
33 violated sections 610.010 to 610.026 previously.

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

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

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

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

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

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

25 3. Each public governmental body may consult with the information technology services
26 division of the office of administration to develop the electronic services offered by the public
27 governmental body to the public pursuant to this section."; and
28

29 Further amend said bill by amending the title, enacting clause, and intersectional references
30 accordingly.
31