

GREEN SHEET REDIGEST

HB 461

2024 Regular Session

Jackson

**PUBLIC RECORDS: Provides for the confidentiality of documents related to local and parish economic development projects.**

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DIGEST

Present law (R.S. 44:1 et seq. – Public Records Law) provides that all types of records, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations, including exceptions for economic development negotiations with the Dept. of Economic Development and with port commissions and port, harbor, and terminal districts.

Proposed law provides that records in the custody of a local government pertaining to an active negotiation with a person for the purpose of a proposed capital improvement project valued at more than five million dollars involving the retention, expansion, or attraction of further economic development in the parish or municipality shall be confidential if such confidentiality is requested in writing at the outset of negotiations detailing the reasons therefor and asserting that the negotiation is conditioned on such confidentiality and the chief executive officer (CEO) of the parish or municipality determines that disclosure of such records would have a detrimental effect on the negotiation and the reasons therefore. Requires a notice of such confidentiality to be published on the local government's website and in its official journal no later than 5 days after the determination of confidentiality. Proposed law further specifies that the local government's expense records pertaining to the negotiation shall be public and subject to review, except that the chief executive officer may redact information that he determines would identify or lead to the identification of the person with whom the local government is negotiating and the information shall be confidential until negotiations are concluded. Provides that at the conclusion of the negotiation, all such records shall be subject to the Public Records Law.

Proposed law limits the confidentiality of the information pertaining to negotiations to 12 months from the date of the CEO's determination of confidentiality. Provides that the confidentiality may be extended for one additional 12-month period if the negotiation remains active and the CEO again determines the disclosure would be detrimental to the negotiation and he provides notice on the local government's website and in its official journal.

Proposed law specifically does not apply to an application for license or permit or any record of negotiations concerning any hazardous waste or waste site. Proposed law provides that the confidentiality provisions in proposed law shall not be effective unless the party whose information is being held as confidential also maintains as confidential information provided to the party by local government concerning the project.

(Adds R.S. 44:22.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the engrossed bill

1. Limit the application of confidentiality to capital improvement projects valued at more than five million dollars.
2. Require a written declaration of the intent to limit access to records at the outset of negotiations.
3. Shorten the time period a local government must publish notice containing general information regarding each negotiation to which records are confidential from 10 days to 5 days.
4. Require records of local government expenses pertaining to the negotiation to be public and subject to review with an exception that the chief executive officer may redact information he determines would identify or lead to the identification of the person with whom the local government is negotiating.