

RÉSUMÉ DIGEST

ACT 618 (HB 461)

2024 Regular Session

Jackson

Existing 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". Existing 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.

New law adds an exception to provide that records in the custody of a local government pertaining to an active negotiation for the purpose of a proposed project involving the retention, expansion, or attraction of further economic development 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. Prohibits the CEO from entering into an agreement without an affirmative vote of the governing authority consistent with the Open Meetings Law. Requires a notice of such confidentiality to be published on the local government's website and in its official journal no later than five days after the determination of confidentiality. New 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 that 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.

New law defines "active negotiation", "negotiation remains active", "chief executive officer", "local government", and "economic development" for its purposes. Specifies when a negotiation is no longer active. Defines "economic development" as a project for which a company commits to either creating or retaining at least 15 permanent jobs for manufacturing or distribution centers; at least 25 permanent jobs for digital media, headquarters, research and development, or inbound call center operations; or having at least \$5 million in capital improvements.

New 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.

New law specifically does not apply to an application for a license or permit or to any record of negotiations concerning any hazardous waste or waste site. New law provides that the confidentiality provisions in new 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.

New law provides that the provisions of new law terminate on Jan. 1, 2028.

Effective August 1, 2024.

(Adds R.S. 44:22.2)