

Regular Session, 2014

HOUSE BILL NO. 1121

BY REPRESENTATIVE DANAHAAY

PUBLIC RECORDS: Provides an exemption from the Public Records Law for certain commercially sensitive information of a public power authority

1 AN ACT

2 To enact R.S. 44:3.3, relative to public records; to provide an exemption for certain  
3 commercially sensitive information of a public power authority; to provide for  
4 definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 44:3.3 is hereby enacted to read as follows:

7 §3.3. Public power authority; commercially sensitive information

8 A. Nothing in this Chapter shall require the disclosure of commercially  
9 sensitive information in the custody or control of a public power authority.

10 B. For purposes of this Section, the following terms shall have the following  
11 meanings:

12 (1) "Commercially sensitive information" means information regarding a  
13 utility matter that is directly related to the public power authority's competitive  
14 activity which would, if disclosed, give an advantage to competitors or prospective  
15 competitors and includes the following:

16 (a) Portfolio and generation unit specific fixed, variable, and related costs.

17 (b) Fuel and purchased power costs and costs of related activities.

18 (c) Risk management information and strategies.

19 (d) Power pricing information, system load characteristics, marketing  
20 analyses and strategies, and customer billing, contract, and usage information.

1           (2) "Public power authority" means a political subdivision of the state  
 2           created by the governing authority of a municipality pursuant to R.S. 33:4172 for the  
 3           purpose of the construction, acquisition, improvement, operation, or management of  
 4           a public power project or improvement.

5           C. The provisions of Subsection A of this Section shall not apply to general  
 6           information relating to the identity of the parties to any agreement or contract with  
 7           a public power authority, and such information shall be subject to inspection,  
 8           examination, copying, and reproduction.

9           D. Nothing in this Section shall be construed in a manner as to prevent the  
 10          inspection, examination, copying, or reproduction of any record or part of a record  
 11          that does not contain commercially sensitive information.

12          Section 2. This Act shall become effective upon signature by the governor or, if not  
 13 signed by the governor, upon expiration of the time for bills to become law without signature  
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 16 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Danahay

HB No. 1121

**Abstract:** Provides a public records exemption for certain commercially sensitive information of a public power authority.

Present law (Public Records Law, R.S. 44:1 et seq.) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, 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 the 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 for a public entity or agency to provide copies to persons so requesting.

Present law provides for certain exceptions, exemptions, and limitations. Present law further specifies that any exception, exemption, and limitation to the laws pertaining to public records not provided for in the Public Records Law or in the constitution shall have no effect.

Proposed law provides that nothing in the Public Records Law shall require the disclosure of commercially sensitive information in the custody or control of a public power authority. Defines "public power authority" and "commercially sensitive information" for its purposes.

Proposed law specifies that general information relating to the identity of the parties to any agreement or contract with a public power authority shall be subject to inspection, examination, copying, and reproduction and that nothing in proposed law shall be construed in a manner as to prevent the inspection, examination, copying, or reproduction of any record or part of a record that does not contain commercially sensitive information.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 44:3.3)