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## DIGEST

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HB 665 Original

2018 Regular Session

Gregory Miller

**Abstract:** Provides for confidentiality of certain information regarding active negotiations involving a port commission or a port, harbor, and terminal district for no more than 24 months under certain circumstances.

Present law (R.S. 44:1 et seq. – Public Records Law) 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 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.

Proposed law provides that records in the custody of a port commission or port, harbor, and terminal district pertaining to an active negotiation with a person for the purpose of a proposed project involving the retention, expansion, or attraction of further economic development of the port which relate to or facilitate the transportation of goods in domestic or international commerce shall be confidential if such confidentiality is requested in writing detailing the reasons therefor and asserting that the negotiation is conditioned on such confidentiality and the chief executive officer (CEO) of the commission or district determines that disclosure of such records would have a detrimental effect on the negotiation and the reasons therefor. Requires publication in the commission's or district's official journal of a notice of such confidentiality no later than ten days after the determination of confidentiality.

Proposed law provides that the commission's or district's expense records pertaining to the negotiation shall be public except the CEO may redact information he determines would identify the person with whom the commission or district is negotiating and such 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 negotiations to 12 months from the date of the CEO's determination of confidentiality. Provides that the confidentiality may be extended another 12 months if the negotiation remains active and the CEO again determines the disclosure would be detrimental to the negotiation and he provides notice in the official journal. Further limits confidentiality of the negotiations to no more than 24 months after the CEO's initial determination.

Proposed law defines active negotiation as a negotiation that has commenced and has not concluded when the commission or district receives a request for information from a person concerning the project. Provides that a negotiation is no longer active or is concluded when the commission or district or the person decides to no longer actively pursue the request for assistance or when a proposal affecting the negotiation is submitted to a public body for consideration in a public meeting, whichever occurs earlier.

Proposed law specifies that it 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 the commission or district concerning the project.

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

(Adds R.S. 44:22.1)