

2024 Regular Session

HOUSE BILL NO. 461

BY REPRESENTATIVE JACKSON

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

1 AN ACT

2 To enact R.S. 44:22.2, relative to public records; to provide an exception for certain
3 documents related to economic development negotiations by local government; to
4 require certain procedures and notices; to provide a limitation on the amount of time
5 certain information regarding the negotiations may remain confidential; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 44:22.2 is hereby enacted to read as follows:

9 §22.2. Local government economic development negotiations

10 A. Notwithstanding any other provision of this Chapter to the contrary,
11 records that are in the custody of a local government that pertain to an active
12 negotiation with a person for the purpose of a proposed project involving the
13 retention, expansion, or attraction of further economic development within the local
14 government's jurisdictional boundaries shall be confidential and shall not be subject
15 to the provisions of R.S. 44:31, 32, or 33 if the person requests such confidentiality
16 in writing detailing the reasons such person requests confidentiality and asserting
17 that the negotiation is conditioned in whole or in part on the maintenance of such
18 confidentiality, and the chief executive officer of the local government determines
19 that the disclosure of such records would have a detrimental effect on the
20 negotiation. Each determination by the chief executive officer shall include reasons

1 for the determination. The local government shall publish on its website and in its
2 official journal a notice containing general information regarding each negotiation
3 to which records are confidential pursuant to this Section no later than ten days after
4 the determination of confidentiality. Such notice shall include the date of the chief
5 executive officer's determination. Records of expenses of the local government
6 pertaining to the negotiation shall be confidential until the negotiations are
7 concluded. However, immediately on the conclusion of the negotiation, all such
8 records shall be subject to the provisions of this Chapter.

9 B. No information made confidential pursuant to Subsection A of this
10 Section shall remain confidential for more than twelve months from the date of the
11 chief executive officer's determination of confidentiality; however, if the negotiation
12 remains active and the chief executive officer makes a new determination that the
13 disclosure of the information would be detrimental to the negotiations and gives
14 notice as provided in Subsection A of this Section, such information shall remain
15 confidential while the negotiation remains active, not to exceed an additional twelve
16 months. Under no circumstances shall information made confidential pursuant to
17 this Section remain confidential for more than twenty-four months from the date of
18 the initial determination of the chief executive officer.

19 C. For the purposes of this Section:

20 (1) "Active negotiation" or "negotiation remains active" means a negotiation
21 that has commenced concerning a project for the retention, expansion, or location of
22 a business within the jurisdictional boundaries of the local government and which is
23 not concluded when the local government receives a request for information or other
24 similar document concerning the project. For the purposes of this Section, a
25 negotiation is no longer active or is concluded when the local government decides
26 to no longer actively pursue the proposed project with the person; when the person
27 with whom the local government was negotiating decides not to pursue the proposed
28 project; or when a proposal affecting the negotiation is submitted to a public body
29 for consideration by the public body in a public meeting, whichever occurs earlier.

1 (2) "Chief executive officer" for a municipality means the mayor and for a
2 parish, means the parish president or the official designated as the chief executive
3 officer of the parish by law or home rule charter.

4 (3) "Local government" means a parish or municipality.

5 D. The provisions of Subsection A of this Section shall not apply to any
6 application for a license or permit or to any record of negotiations concerning any
7 hazardous waste or waste site as "hazardous waste" and "waste" are defined in R.S.
8 30:2173.

9 E. The provisions of this Section shall have no effect unless the party whose
10 information is being maintained as confidential also maintains as confidential any
11 information provided to the party by the local government concerning the project
12 which remains in active negotiation.

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)]

HB 461 Engrossed

2024 Regular Session

Jackson

Abstract: Provides for confidentiality of certain information regarding active economic development negotiations involving a local government for no more than 24 months under certain circumstances.

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 project 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 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 10 days after the determination of confidentiality. Proposed law further specifies that the local government's expense records pertaining to the negotiation 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)