

2015 Regular Session

HOUSE BILL NO. 169

BY REPRESENTATIVE HENRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LEGISLATIVE AFFAIRS: Requires state entities, officials, and employees to provide information to the legislature

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(13) and to enact R.S. 24:15, relative to the provision
3 of information; to require state entities, officials, and employees to provide
4 information to the legislature; to provide that any privileged or confidential
5 information maintains its status; to provide for enforcement; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 24:15 is hereby enacted to read as follows:

9 §15. Provision of information by state agencies

10 A.(1) Notwithstanding any law to the contrary, each department, agency,
11 official, employee, or other entity of the executive branch of state government shall
12 promptly make available all information requested by the legislature and shall in all
13 ways cooperate with the legislature by providing any and all information the
14 legislature deems necessary in assisting the legislature to perform and discharge its
15 powers, functions, and duties.

16 (2) Notwithstanding any law to the contrary, each court, official, employee,
17 or other entity of the judicial branch of state government shall promptly make
18 available all information pertaining to any money or monies, any assets or items of
19 economic value to the state, or any financial transactions in the control of or handled

1 by or through the judicial branch of state government requested by the legislature
2 and shall in all ways cooperate with the legislature by providing any and all
3 information pertaining to any money or monies, any assets or items of economic
4 value to the state, or any financial transactions in the control of or handled by or
5 through the judicial branch of state government that the legislature deems necessary
6 in assisting the legislature to perform and discharge its powers, functions, and duties.

7 B. No department, agency, official, employee, or other entity of state
8 government shall invoke any privilege or utilize any other impediment to deny the
9 provision of any requested information to the legislature; however, any information
10 that is deemed confidential or privileged by law and that is provided to the
11 legislature shall maintain its confidential or privileged status and shall be protected
12 from unauthorized use and disclosure. The person or entity providing any
13 confidential or privileged information to the legislature shall clearly mark the
14 information as confidential or privileged. The disclosure of any confidential or
15 privileged information by a department, agency, official, employee, or other entity
16 of state government to the legislature shall not be deemed a waiver of any right,
17 limitation, privilege, or confidentiality regarding such information. No department,
18 agency, official, employee, or other entity of state government shall be liable in any
19 civil action, criminal prosecution, or administrative proceeding for providing
20 confidential, privileged, or protected information to the legislature pursuant to this
21 Section. The legislature shall not disclose any confidential or privileged information
22 provided pursuant to this Section to any person outside the legislature, and such
23 information shall be used solely for the purpose of analysis, compilation of general
24 statistical data, oversight, program evaluation, and policy development.

25 C. Any information provided to the legislature in accordance with the
26 provisions of this Section shall be provided without cost or charge to the legislature.

27 D. If a department, agency, official, employee, or other entity of state
28 government fails to timely provide information requested pursuant to this Section,
29 by refusing to provide the information, by the passage of five days, exclusive of

1 Saturdays, Sundays, and legal public holidays, from the date of the request, or upon
2 the expiration of any extension agreed to in writing by the requestor and the
3 custodian of the information, the appropriate legislative officer shall institute
4 proceedings in the district court for the parish where the state capitol is located for
5 the issuance of a writ of mandamus to compel the production of the information.

6 E.(1) For purposes of this Section, the term "legislature" shall mean the
7 legislature, either house of the legislature, any committee of the legislature or either
8 house of the legislature, a member of the legislature, the legislative fiscal office, the
9 legislative auditor's office, and any officer or full-time employee thereof acting to
10 fulfill public functions and duties.

11 (2) For purposes of Subsection D of this Section, "appropriate legislative
12 officer" shall mean:

13 (a) The clerk of the House of Representatives if the requestor is the House
14 of Representatives or a member, officer, committee, or employee of the House of
15 Representatives.

16 (b) The secretary of the Senate if the requestor is the Senate or a member,
17 officer, committee, or employee of the Senate.

18 (c) The legislative auditor if the requestor is the office of the legislative
19 auditor or an officer or employee of the office of the legislative auditor.

20 (d) The legislative fiscal officer if the requestor is the legislative fiscal office
21 or an officer or employee of the legislative fiscal office.

22 (e) The clerk of the House of Representatives and the secretary of the Senate
23 acting jointly if the requestor is the legislature or a joint legislative body established
24 by law, resolution, or the rules of procedure of either house or an officer or employee
25 of such a joint legislative body.

26 F. The provisions of this Section shall not apply to any of the following:

27 (1) Protected health information. For purposes of this Paragraph, "protected
28 health information" shall mean any information about past, present, or future

1 physical or mental health status, condition, treatment, service, or payment for health
2 care that is linked to a specific individual.

3 (2) Private information. For purposes of this Paragraph, "private
4 information" shall mean the social security number, date of birth, driver's license
5 number, mother's maiden name, or biometric records of an individual and any
6 personally identifying information of a minor.

7 (3) Protected tax return information of an individual or legal entity.

8 (4) Information that if disclosed to the legislature pursuant to this Section
9 would subject a state agency to a fine or reduction in funding pursuant to federal law
10 or regulation.

11 (5) Information regarding a specific matter under investigation by a law
12 enforcement agency, licensing or regulatory board or commission, or the Board of
13 Ethics.

14 (6) Information regarding deliberations regarding a specific matter being
15 adjudicated by an official or agency authorized to exercise quasi-judicial power.

16 (7) Proprietary or trade secret information of a private legal entity in the
17 custody or control of the Department of Insurance pursuant to its duties to
18 investigate, examine, manage, or liquidate certain legal entities in the manner
19 provided by law; confidential, proprietary, or trade secret information submitted to
20 the Public Service Commission pursuant to its authority pursuant to Article IV,
21 Section 21(B) of the Constitution of Louisiana; or proprietary or trade secret
22 information contained within a specific matter being adjudicated by the division of
23 administrative law.

24 Section 2. R.S. 44:4.1(B)(13) is hereby amended and reenacted to read as follows:

25 §4.1. Exceptions

26 * * *

27 B. The legislature further recognizes that there exist exceptions, exemptions,
28 and limitations to the laws pertaining to public records throughout the revised
29 statutes and codes of this state. Therefore, the following exceptions, exemptions, and

1 limitations are hereby continued in effect by incorporation into this Chapter by
2 citation:

3 * * *

4 (13) R.S. 24:15, 513, 513.1, 513.3, 518

5 * * *

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 169 Reengrossed

2015 Regular Session

Henry

Abstract: Requires each department, agency, official, employee, or other entity of state government to promptly make available all information requested by the legislature. Provides specified exceptions.

Proposed law requires, notwithstanding any law to the contrary, each department, agency, official, employee, or other entity of the executive branch of state government to promptly make available all information requested by the legislature and to cooperate with the legislature by providing any and all information the legislature deems necessary to assist the legislature to perform and discharge its powers, functions, and duties. Further requires each court, official, employee, or other entity of the judicial branch of state government to promptly make available all information pertaining to any money or monies, any assets or items of economic value to the state, or any financial transactions in the control of or handled by or through the judicial branch of state government requested by the legislature and to cooperate with the legislature by providing any and all information pertaining to any money or monies, any assets or items of economic value to the state, or any financial transactions in the control of or handled by or through the judicial branch of state government that the legislature deems necessary to assist the legislature to perform and discharge its powers, functions, and duties. Proposed law specifies that any information provided to the legislature shall be without cost or charge.

Proposed law prohibits the invoking of any privilege or other impediment to deny the provision of the requested information. Provides that confidential or privileged information retains its status and shall be protected against unauthorized use and disclosure. Requires the person or entity providing such information to clearly mark it. Provides that the provision of such information to the legislature shall not be deemed a waiver of any right, limitation, privilege, or confidentiality and provides that no person or entity shall be liable in any civil action, criminal prosecution, or administrative proceeding for providing confidential, privileged, or protected information to the legislature. Prohibits the legislature from disclosing such information to any person outside the legislature and restricts its use to analysis, compilation of general statistical data, oversight, program evaluation, and policy development. Proposed law further recognizes the limitation on the information in the Public Records Law.

Proposed law specifies that the provisions of proposed law shall not apply to protected health information of an individual; private information of an individual and any personally identifying information of a minor; protected tax return information of an individual or legal entity; information that if disclosed to the legislature pursuant to proposed law would subject a state agency to a fine or reduction in funding pursuant to federal law or regulation; information regarding a specific matter under investigation by a law enforcement agency,

licensing or regulatory board or commission, or the Board of Ethics; information regarding deliberations regarding a specific matter being adjudicated by an official or agency authorized to exercise quasi-judicial power; proprietary or trade secret information of a private legal entity in the custody or control of the Dept. of Insurance pursuant to its duties to investigate, examine, manage, or liquidate certain legal entities in the manner provided by law; confidential, proprietary, or trade secret information submitted to the Public Service Commission pursuant to its constitutional authority; or proprietary or trade secret information contained within a specific matter being adjudicated by the division of administrative law.

Defines "legislature" as the legislature, either house of the legislature, any committee of the legislature or either house of the legislature, a member of the legislature, the legislative fiscal office, the legislative auditor's office, and any officer or full-time employee thereof acting to fulfill public functions and duties.

Proposed law further provides that if the information is not timely provided by refusal to provide the information, by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of the request, or upon the expiration of any extension agreed to in writing by the requestor and the custodian of the information, the appropriate legislative officer shall institute proceedings for the issuance of a writ of mandamus to compel the production of the information in the district court for the parish where the state capitol is located. Defines "appropriate legislative officer" for such purposes.

(Amends R.S. 44:4.1(B)(13); Adds R.S. 24:15)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Limit the broad provision of information requirement to the executive branch of state government and provide a requirement that the judicial branch provide the legislature with specific types of information.
2. Specify that privileged and confidential information shall be protected from unauthorized use and disclosure and that the disclosure of such information to the legislature shall not be deemed a waiver of any right, limitation, privilege, or confidentiality.
3. Add all types of legislative committees to the definition of "legislature" by removing the limitation to standing or statutory committees and limit the definition to specified legislative entities, officials, and employees "acting to fulfill public functions and duties".
4. Add exceptions for protected health information of an individual, private information of an individual, protected tax return information, information that if disclosed to the legislature would subject an agency to specified federal sanctions, information regarding specified matters under investigation, deliberations of an official or agency authorized to exercise quasi-judicial power, and specified confidential, proprietary, or trade secret information.

The House Floor Amendments to the engrossed bill:

1. Provide that no person or entity shall be liable in any civil action, criminal prosecution, or administrative proceeding providing confidential, privileged, or protected information to the legislature.

2. Add provision for delaying the institution of proceedings until the expiration of any extension agreed to in writing.
3. Add exception for any personally identifying information of a minor.