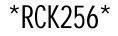
Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1	State of Arkansas	As Engrossed: \$3/18/99 A Bill	
2	82nd General Assembly	A DIII	
3	Regular Session, 1999		HOUSE BILL 1817
4			
5	By: Representatives Hunt, Taylor		
6			
7		For An Act To Be Entitled	
8 9	"AN ACT TO AMEND ARKANSAS CODE § 25-19-105 REGARDING		
, 10	THE EXAMINATION AND COPYING OF PUBLIC RECORDS UNDER		
10	THE ARKANSAS FREEDOM OF INFORMATION ACT; AND FOR OTHER		
12	PURPOSES. "		
13			
14	Subtitle		
15	"TO AMEND ARKANSAS CODE § 25-19-105		
16	REGARDING THE EXAMINATION AND COPYING OF		
17	PUBLIC RECORDS UNDER THE ARKANSAS		
18	FREEDOM OF INFORMATION ACT."		
19			
20			
21	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:		
22			
23	SECTION 1. Arkansas Code 25-19-105 is amended to read as follows:		
24	"25-19-105. Examination and copying of public records.		
25	(a) Except as otherwise specifically provided by this section or by		
26	laws specifically enacted to provide otherwise, all public records shall be		
27	open to inspection and copying by any citizen of the State of Arkansas during		
28	the regular business hours of the custodian of the records.		
29	• • •	cific intent of this section the	-
30		open to the public under the p	provisions of this
31	chapter:		
32		ncome tax records;	
33		records, scholastic records, a	
34 25	(3) The site files and records maintained by the Arkansas		
35 24	Historic Preservation Program and the Arkansas Archeological Survey; (4) Grand jury minutes;		
36	(4) Grandju	n y minutes;	



As Engrossed: S3/18/99

HB1817

1 Unpublished drafts of judicial or quasijudicial opinions and (5) 2 deci si ons; 3 (6) Undisclosed investigations by law enforcement agencies of 4 suspected criminal activity; Unpublished memoranda, working papers, and correspondence of 5 (7)the Governor, members of the General Assembly, Supreme Court Justices, Court 6 7 of Appeals Judges and the Attorney General; (8) Documents which are protected from disclosure by order or 8 9 rule of court; (9)(A) Files which, if disclosed, would give advantage to 10 11 competitors or bidders; and 12 (B)(i) Records maintained by the Arkansas Economic 13 Development Commission related to any business entity's planning, site location, expansion, operations, or product development and marketing, unless 14 15 approval for release of such records is granted by the business entity. 16 (ii) Provided, however, this exemption shall not be 17 applicable to any records of expenditures or grants made or administered by 18 the Arkansas Economic Development Commission and otherwise disclosable under 19 the provisions of this chapter; 20 Personnel records to the extent that disclosure would (10) 21 constitute clearly unwarranted invasion of personal privacy; 22 (11)(A) The identity of law enforcement officers currently 23 working undercover with their agencies and identified in the Arkansas Minimum Standards Office as undercover officers 24 25 (B) Records of the number of undercover officers an agency 26 lists are not exempt from this chapter; and 27 (12) Division of ownership information on oil or gas leases voluntarily 28 provided by an oil or gas company to a county assessor, which if disclosed, 29 could result in an economic loss to the company. This subdivision (12) shall expire on July 1, 1999. 30 31 (c)(1) However, all employee evaluation or job performance records, including preliminary notes and other materials, shall be open to public 32 33 inspection only upon final administrative resolution of any suspension or 34 termination proceeding at which the records form a basis for the decision to 35 suspend or terminate the employee and if there is a compelling public interest in their disclosure. 36

2

HB1817

1 (2) Any personnel or evaluation records exempt from disclosure 2 under this chapter shall nonetheless be made available to the person about 3 whom the records are maintained or to that person's designated representative.

4 (3)(A) Upon receiving a request for the examination or copying of personnel or evaluation records, the custodian of the records shall, within 5 twenty-four (24) hours of the receipt of the request, determine whether the 6 7 records are exempt from disclosure and make efforts to the fullest extent possible to notify the person making the request and the subject of the 8 9 records of that decision.

10 (B) If the subject of the records cannot be contacted in 11 person or by telephone within the twenty-four-hour period, the custodian shall 12 send written notice via overnight mail to the subject of the records at his 13 last known address. Either the custodian, requester, or the subject of the 14 records may immediately seek an opinion from the Attorney General, who, within 15 three (3) working days of receipt of the request, shall issue an opinion 16 stating whether the decision is consistent with this chapter. In the event of a review by the Attorney General, the custodian shall not disclose the records 17 18 until the Attorney General has issued his opinion.

19 (C) However, nothing in this subsection (c) shall be 20 construed to prevent the requester or the subject of the records from seeking judicial review of the custodian's decision or the decision of the Attorney 21 22 General.

23 (d) Reasonable access to public records and reasonable comforts and 24 facilities for the full exercise of the right to inspect and copy those 25 records shall not be denied to any citizen.

26 (e) If a public record is in active use or storage and, therefore, not 27 available at the time a citizen asks to examine it, the custodian shall 28 certify this fact in writing to the applicant and set a date and hour within 29 three (3) working days, at which time the record will be available for the exercise of the right given by this chapter. 30

31 (f) Notwithstanding any Arkansas law to the contrary, at the conclusion 32 of any investigation conducted by a state agency in pursuit of civil penalties against the subject of the investigation, any settlement agreement entered 33 34 into by a state agency shall be deemed a public document for the purposes of 35 this chapter. However, the provisions of this subsection shall not apply to any investigation or settlement agreement involving any state tax covered by 36

3

1	the Arkansas Tax Procedure Act (§ 26-18-101, et seq)."		
2			
3	SECTION 2. All provisions of this act of a general and permanent nature		
4	are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code		
5	Revision Commission shall incorporate the same in the Code.		
6			
7	SECTION 3. If any provision of this act or the application thereof to		
8	any person or circumstance is held invalid, such invalidity shall not affect		
9	other provisions or applications of the act which can be given effect without		
10	the invalid provision or application, and to this end the provisions of this		
11	act are declared to be severable.		
12			
13	SECTION 4. All laws and parts of laws in conflict with this act are		
14	hereby repealed.		
15	/s/ Hunt		
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			

4