

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 2723

By: Representative Mahony

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF THE FREEDOM
OF INFORMATION ACT OF 1967; AND FOR OTHER
PURPOSES.

Subtitle

AN ACT TO AMEND VARIOUS PROVISIONS OF
THE FREEDOM OF INFORMATION ACT OF 1967.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 25-19-105(b), concerning exceptions to disclosure under the Freedom of Information Act of 1967, as amended by Act 259 of 2005, is amended to read as follows:

(b) It is the specific intent of this section that the following shall not be deemed to be made open to the public under the provisions of this chapter:

- (1) State income tax records;
- (2) Medical records, adoption records, and education records as defined in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, unless their disclosure is consistent with the provisions of that act;
- (3) The site files and records maintained by the Arkansas Historic Preservation Program of the Department of Arkansas Heritage and the Arkansas Archeological Survey;
- (4) Grand jury minutes;
- (5) Unpublished drafts of judicial or quasi-judicial opinions and decisions;



1 (6) Undisclosed investigations by law enforcement agencies of
2 suspected criminal activity;

3 (7) Unpublished memoranda, working papers, and correspondence of
4 the Governor, members of the General Assembly, Supreme Court Justices, Court
5 of Appeals Judges, and the Attorney General;

6 (8) Documents that are protected from disclosure by order or
7 rule of court;

8 (9)(A) Files that if disclosed would give advantage to
9 competitors or bidders, and records maintained by municipalities, counties,
10 townships, school districts, or the Arkansas Economic Development Commission
11 related to any business entity's planning, site location, expansion,
12 operations, or product development and marketing, unless approval for release
13 of those records is granted by the business entity.

14 (B) However, this exemption shall not be applicable to any
15 records of expenditures or grants made or administered by a municipality,
16 county, township, school district, or the commission and otherwise
17 disclosable under the provisions of this chapter;

18 (10)(A) The identities of law enforcement officers currently
19 working undercover with their agencies and identified in the Arkansas Minimum
20 Standards Office as undercover officers.

21 (B) Records of the number of undercover officers and
22 agency lists are not exempt from this chapter;

23 (11) Records containing measures, procedures, instructions, or
24 related data used to cause a computer or a computer system or network,
25 including telecommunication networks or applications thereon, to perform
26 security functions, including, but not limited to, passwords, personal
27 identification numbers, transaction authorization mechanisms, and other means
28 of preventing access to computers, computer systems or networks, or any data
29 residing therein;

30 (12) Personnel records to the extent that disclosure would
31 constitute a clearly unwarranted invasion of personal privacy;

32 (13) Home addresses of nonelected state employees, nonelected
33 municipal employees, and nonelected county employees contained in employer
34 records, except that the custodian of the records shall verify an employee's
35 city or county of residence or address on record upon request;

36 (14) Materials, information, examinations, and answers to

1 examinations utilized by boards and commissions for purposes of testing
 2 applicants for licensure by state boards or commissions;

3 (15) Military service discharge records or DD Form 214, the
 4 Certificate of Release or Discharge from Active Duty of the United States
 5 Department of Defense, filed with the county recorder as provided under § 14-
 6 2-102, for veterans discharged from service less than seventy (70) years from
 7 the current date; ~~and~~

8 (16)(A) Records, including analyses, investigations, studies,
 9 reports, recommendations, requests for proposals, drawings, diagrams,
 10 blueprints, and plans, containing information relating to security for any
 11 public water system.

12 (B) The records shall include:

- 13 (i) Risk and vulnerability assessments;
- 14 (ii) Plans and proposals for preventing and
 15 mitigating security risks;
- 16 (iii) Emergency response and recovery records;
- 17 (iv) Security plans and procedures; and
- 18 (v) Any other records containing information that,
 19 if disclosed, might jeopardize or compromise efforts to secure and protect
 20 the public water system;

21 (C) Subdivision (b)(16) of this section shall expire on
 22 July 1, 2007.

23 (17)(A) Records maintained by a municipality, county, township,
 24 or school district containing information relating to legal actions, causes
 25 of action, litigation, or settlement offers involving the municipality or
 26 county and any confidential or privileged communications between a
 27 municipality or county or its representatives and its attorneys.

28 (B) However, any minutes, votes, or settlement agreements
 29 relating to legal actions, causes of action, litigation, or settlement offers
 30 involving a municipality, county, or school district or any agent or entity
 31 representing the interests or acting with the authority of a municipality or
 32 county shall be made public upon final disposition of the matter or upon the
 33 signing by the parties of the settlement agreement, notwithstanding a court
 34 order prohibiting disclosure of a document.

35 (C) This exemption shall not be applicable to any records
 36 filed with the Arkansas Supreme Court, Court of Appeals, any circuit court,

any district court or the clerk of the Arkansas Supreme Court, Court of Appeals, or any circuit court or district court; and

(18)(A) Records maintained by municipalities, counties, townships, and school districts containing information relating to the purchase or sale price of real property.

(B) However, information pertaining to the purchase or sale price of real property shall be made public immediately upon the completion of the transaction.

(C) This exemption shall not be applicable to any records filed with the Arkansas Supreme Court, Court of Appeals, any circuit court, any district court or the clerk of the Arkansas Supreme Court, Court of Appeals, or any circuit court or district court.

SECTION 2. Arkansas Code § 25-19-106 as amended by Act 259 of 2005, is amended to read as follows:

25-19-106. Open public meetings.

(a) Except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards, bureaus, commissions, or organizations of the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings.

(b)(1) The time and place of each regular meeting shall be furnished to anyone who requests the information.

(2) In the event of emergency or special meetings, the person calling the meeting shall notify the representatives of the newspapers, radio stations, and television stations, if any, located in the county in which the meeting is to be held and any news media located elsewhere that cover regular meetings of the governing body and that have requested to be so notified of emergency or special meetings of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting.

(c)(1) Executive sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee. The specific purpose of the executive session shall be announced in public before going into executive

1 session.

2 (2)(A) Only the person holding the top administrative position
3 in the public agency, department, or office involved, the immediate
4 supervisor of the employee involved, and the employee may be present at the
5 executive session when so requested by the governing body, board, commission,
6 or other public body holding the executive session.

7 (B) Any person being interviewed for the top
8 administrative position in the public agency, department, or office involved
9 may be present at the executive session when so requested by the governing
10 board, commission, or other public body holding the executive session.

11 (3) Executive sessions must never be called for the purpose of
12 defeating the reason or the spirit of this chapter.

13 (4) No resolution, ordinance, rule, contract, regulation, or
14 motion considered or arrived at in executive session will be legal unless,
15 following the executive session, the public body reconvenes in public session
16 and presents and votes on the resolution, ordinance, rule, contract,
17 regulation, or motion.

18 (5)(A) Boards and commissions of this state may meet in
19 executive session for purposes of preparing examination materials and answers
20 to examination materials that are administered to applicants for licensure
21 from state agencies.

22 (B) Boards and commissions are excluded from this chapter
23 for the administering of examinations to applicants for licensure.

24 (6)(A) Subject to the provisions of subdivision (c)(4) of this
25 section, any public agency may meet in executive session for the purpose of
26 considering, evaluating, or discussing matters pertaining to public water
27 system security as described in § 25-19-105(b)(16).

28 (B) Subdivision (c)(6) of this section shall expire on
29 July 1, 2007.

30 (7) A municipality, county, township, or school district may
31 meet in executive session for the purpose of discussing legal actions, causes
32 of action, litigation, or settlement offers involving the municipality,
33 county, or school district with its attorneys.

34 (8) A municipality, county, township, or school district may
35 meet in executive session for the purpose of discussing information relating
36 to the purchase or sale price of real property.