

Amendment No. 1 to SB2093

Briggs
Signature of Sponsor

AMEND Senate Bill No. 2093

House Bill No. 1692*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 22, is amended by adding the following new section:

(a) Notwithstanding another law to the contrary, the department of tourist development adopts as its official policy the principle of open records and, unless otherwise provided by this section, the information and documents maintained, received, or produced by the department are open for inspection by the public.

(b) A binding contract or agreement entered into or signed by the department that obligates public funds, together with all supporting records and documentation, is a public record and open for public inspection as of the date the contract or agreement is entered into or signed.

(c)

(1) Notwithstanding another law to the contrary, a record, documentary materials, or other information, including proprietary information, received, produced, or maintained by the department is a public record and open for public inspection unless the commissioner, with the affirmative agreement of the attorney general and reporter, determines that a document or information is of such a sensitive nature that its disclosure or release would seriously harm the ability of this state to negotiate events, contracts, agreements, or administer grant programs.

(2) If the commissioner, with the agreement of the attorney general and reporter, determines pursuant to subdivision (c)(1) that a document or information should not be released or disclosed because of its sensitive nature, such document or information is confidential until whichever of the following occurs first:

(A) Ten (10) years from the date such determination is rendered;

(B) After the disbursement of state funds;

(C) After the conclusion of the event in which the contract or event was negotiated; or

(D) Upon the expiration of a contract entered into by this state.

(3) A record, documentary materials, or other supporting information must not be destroyed during the period that such record, material, or information is confidential and must be retained for a period of five (5) years after the record, material, or information is no longer confidential, or for a period not inconsistent with other state retention laws, whichever is longer.

(d) This section does not apply to:

(1) Trade secrets received, maintained, or produced by the department.

All such trade secrets must remain confidential; and

(2) Documents or records of a person, entity, or company containing marketing information or capital plans that are provided to the department with the understanding that such information or plans are now and should remain confidential. Such information or plans must remain confidential until such time as the provider thereof no longer requires its confidentiality.

(e) As used in this section, unless the context otherwise requires:

(1) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(2) "Marketing information" means marketing plans, marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(3) "Proprietary information" means commercial or financial information that is used either directly or indirectly in the business of a person, entity, or company submitting information to the department, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information; and

(4) "Trade secrets" means a pattern, compilation, program, device, method, technique, or process of a person, entity, or company submitting information to the department.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.