

SENATE BILL 2093

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4,  
Chapter 3, Part 22 and Title 10, Chapter 7, relative  
to records.

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

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 would adversely impact the department's ability to carry out its statutory functions.

(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 for a period of five (5) years from the date such determination is rendered. After the five-year period, the confidential document or information is a public record and open for public inspection unless the process is effectuated again through subdivision (c)(1); provided, that such document or information must not be deemed confidential for more than ten (10) years.

(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.