

HOUSE BILL 2271

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7 and Title 10, Chapter 7, relative to
public records.

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

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2 through 7 as a new, appropriately designated chapter:

SECTION 2. A local government may adopt, by a majority vote of its legislative body, as its official policy the principle of open records and, unless otherwise provided by this chapter, the information and documents maintained, received or produced by such local government shall be open for inspection by the public.

SECTION 3. Any binding contract or agreement entered into or signed by the local government that obligates public funds, together with all supporting records and documentation, shall be considered a public record and open for public inspection as of the date such contract or agreement is entered into or signed.

SECTION 4.

(a) Notwithstanding any other law to the contrary, any record, documentary materials, or other information, including proprietary information, received, produced or maintained by the local government shall be considered public unless the local government's legislative body, with the affirmative agreement of the local government's attorney, determines that a document or information is of such a sensitive nature that its disclosure or release would seriously harm the ability of the local government to compete or conclude agreements or contracts for economic or community development.

(b) If the local government's legislative body, with the agreement of the local government's attorney, determines pursuant to subsection (a) that a document or information should not be released or disclosed because of its sensitive nature, such document or information shall be considered confidential for a period of up to five (5) years from the date such a determination is made. After such period, the document or information made confidential by this chapter shall become a public record and shall be open for inspection.

SECTION 5. This chapter shall not apply to trade secrets received, maintained or produced by the local government. All such trade secrets shall remain confidential.

SECTION 6.

As used in this chapter, unless the context otherwise requires:

(1) "Proprietary information" means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to the local government, 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

(2) "Trade secrets" means manufacturing processes, materials used in manufacturing processes, and costs associated with the manufacturing process of a person or company submitting information to the local government.

SECTION 7.

(a) This chapter shall not apply to company documents or records containing marketing information or capital plans that are provided to the local government with the understanding that they are now and should remain confidential. Any such document or record shall remain confidential until such time as the provider thereof no longer requires its confidentiality.

(b) As used in subsection (a), 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; and

(2) “Marketing information” means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.