

Regular Session, 2012

HOUSE BILL NO. 756

BY REPRESENTATIVE ABRAMSON

PUBLIC RECORDS: Exempts certain materials of higher education boards and institutions from disclosure under the Public Records Law

1 AN ACT

2 To amend and reenact R.S. 44:4(16)(introductory paragraph) and to enact R.S. 44:4(16)(e)
3 through (g), relative to public records; to provide relative to records of boards or
4 institutions of higher learning; to exempt certain records from the Public Records
5 Law; to provide for effectiveness; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 44:4(16)(introductory paragraph) is hereby amended and reenacted
8 and R.S. 44:4(16)(e) through (g) are hereby enacted to read as follows:

9 §4. Applicability

10 This Chapter shall not apply:

11 * * *

12 (16) To the following records of a board or institution of higher learning, in
13 accordance with rules and regulations promulgated by the Board of ~~Trustees for State~~
14 ~~Colleges and Universities~~, Supervisors for the University of Louisiana System, the
15 Board of Supervisors of Louisiana State University and Agricultural and Mechanical
16 College, and the Board of Supervisors of Southern University and Agricultural and
17 Mechanical College, or their successors, in conjunction with the Board of Regents,
18 for programs and institutions under their supervision and management, unless access
19 to the records is specifically required by state or federal statute or is ordered by a
20 court under rules of discovery:

21 * * *

1 (e) Materials or records developed, discovered, disclosed to, or received by
2 or on behalf of faculty, staff, or employees of an institution that have previously been
3 the subject of a denied discovery request.

4 (f) Test questions, scoring keys, and other examination data pertaining to the
5 administration of an academic examination.

6 (g) Teaching materials used by faculty that are not provided to students,
7 including unpublished lecture notes, outlines, slides, syllabi, or recordings.

8 * *

9 Section 2. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

HB No. 756

Abstract: Exempts certain materials of higher education boards and institutions from disclosure pursuant to the Public Records Law.

Present law (Public Records Law, R.S. 44:1, et seq.) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state, are "public records". Present law establishes the framework for the availability of public records to requesting persons, and specifically provides that it is the duty of the custodian of the public records for a public entity or agency to provide copies to persons so requesting. Present law provides for certain exceptions, exemptions, and limitations.

Present law provides that the Public Records Law does not apply to certain records of a board or institution of higher learning, in accordance with rules and regulations promulgated by the higher education management boards in conjunction with the Board of Regents, for programs and institutions under their supervision and management, unless access to the

records is specifically required by state or federal statute or is ordered by a court under rules of discovery. Includes the following:

- (1) Trade secrets and commercial or financial information obtained from a person, firm, or corporation, pertaining to research or to the commercialization of technology, including any such information designated as confidential by such person, firm, or corporation, but not including any such information relating to the identity of principals, officers, or individuals and entities directly or indirectly owning or controlling an entity other than a publicly held entity, or the identity of principals, officers, or individuals and entities directly owning or controlling five percent or more of a publicly held entity.
- (2) Data, records, or information produced or collected by or for faculty or staff of state institutions of higher learning in the conduct of or as a result of, study or research on commercial, scientific, or technical subjects of a patentable or licensable nature, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, until such data, records, or information have been publicly released, published, or patented.
- (3) Those portions of research proposals, supporting documentation, and information, submitted by an institution of higher learning to the Board of Regents' La. Education Quality Support Fund Program, which have been certified by the institution as containing data, information, ideas, or plans of a potentially patentable or licensable nature, including any discussions or written comments concerning such information by reviewers of the proposals, but not including reviewer ratings, until such data, records, or information have been publicly released, published, or patented.
- (4) Those portions of private document collections donated to state institutions of higher learning for historical research or preservation purposes, which are designated by the donor to have restricted access for a specific period of time.

Proposed law retains present law and adds the following to the exemption:

- (1) Materials or records developed, discovered, disclosed to, or received by or on behalf of faculty, staff, or employees of an institution that have previously been the subject of a denied discovery request.
- (2) Test questions, scoring keys, and other examination data pertaining to the administration of an academic examination.
- (3) Teaching materials used by faculty that are not provided to students, including unpublished lecture notes, outlines, slides, syllabi, or recordings.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4(16)(intro. para.); Adds R.S. 4:44(16)(e)-(g))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Corrects a reference in present law to the Board of Trustees for State Colleges and Universities to refer instead to the Board of Supervisors for the University of Louisiana System.

2. Deletes from proposed law provisions relative to admission applications, disciplinary proceedings against students, and records produced or collected in connection with study or research on certain issues.
3. Makes technical changes.