

## HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 756 by Representative Abramson

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

### Synopsis of Senate Amendments

1. Removes provisions of proposed law providing an exemption from the Public Records Law for certain records of an institution of higher learning that were the subject of a denied discovery request.
2. Adds provisions exempting from the Public Records Law any communications, including any mail, electronic mail, short message service message, multi-media message or instant message, having been used, being in use, possessed, or retained for use by the legislature or a legislator in the usual course of the duties and business of the legislature or his legislative office.

### Digest of Bill as Finally Passed by Senate

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) Test questions, scoring keys, and other examination data pertaining to the administration of an academic examination.
- (2) Teaching materials used by faculty that are not provided to students, including unpublished lecture notes, outlines, slides, syllabi, or recordings.

Proposed law additionally provides that the Public Records Law does not apply to any communications, including any mail, electronic mail, short message service message, multi-media message or instant message, having been used, being in use, possessed, or retained for use by the legislature or a legislator in the usual course of the duties and business of the legislature or his legislative office.

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) and (f)and 5(F))