

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

Act 763 of 2003
HOUSE BILL 2245

5 By: Representatives L. Evans, Dickinson, Sullivan, Thomason
6 By: Senator Glover
7

For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS PROVISIONS OF THE FREEDOM
11 OF INFORMATION ACT OF 1967 TO PROVIDE EXEMPTIONS
12 FOR CERTAIN RECORDS AND MEETINGS CONCERNING
13 PUBLIC WATER SYSTEMS IN AN EFFORT TO PROTECT THE
14 SECURITY OF THOSE SYSTEMS; AND FOR OTHER
15 PURPOSES.

Subtitle

18 AN ACT TO AMEND VARIOUS PROVISIONS OF
19 THE FREEDOM OF INFORMATION ACT OF 1967
20 TO PROTECT THE SECURITY OF PUBLIC WATER
21 SYSTEMS.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 25-19-103, concerning the definitions in
27 the Freedom of Information Act of 1967, is amended to add an additional
28 subdivision to read as follows:

29 (6)(A) "Public water system" means all facilities comprising a
30 system for the collection, treatment, and delivery of water to the general
31 public, including, but not limited to, reservoirs, pipelines, reclamation
32 facilities, processing facilities, and distribution facilities.

33 (B) Subdivision (6) of this section shall expire on July
34 1, 2005.
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36 SECTION 2. Arkansas Code § 25-19-105(b), concerning exemptions to the



1 provisions for examination and copying of public records, is amended to read
 2 as follows:

3 (b) It is the specific intent of this section that the following shall
 4 not be deemed to be made open to the public under the provisions of this
 5 chapter:

6 (1) State income tax records;

7 (2) Medical records, adoption records, and education records as
 8 defined in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §
 9 1232g, unless their disclosure is consistent with the provisions of the
 10 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g;

11 (3) The site files and records maintained by the Arkansas
 12 Historic Preservation Program of the Department of Arkansas Heritage and the
 13 Arkansas Archeological Survey;

14 (4) Grand jury minutes;

15 (5) Unpublished drafts of judicial or quasijudicial opinions and
 16 decisions;

17 (6) Undisclosed investigations by law enforcement agencies of
 18 suspected criminal activity;

19 (7) Unpublished memoranda, working papers, and correspondence of
 20 the Governor, members of the General Assembly, Supreme Court Justices, Court
 21 of Appeals Judges, and the Attorney General;

22 (8) Documents which are protected from disclosure by order or
 23 rule of court;

24 (9)(A) Files which, if disclosed, would give advantage to
 25 competitors or bidders, and records maintained by the Arkansas Economic
 26 Development Commission related to any business entity's planning, site
 27 location, expansion, operations, or product development and marketing, unless
 28 approval for release of such records is granted by the business entity.

29 (B) Provided, however, this exemption shall not be
 30 applicable to any records of expenditures or grants made or administered by
 31 the commission and otherwise disclosable under the provisions of this
 32 chapter;

33 (10)(A) The identities of law enforcement officers currently
 34 working undercover with their agencies and identified in the Arkansas Minimum
 35 Standards Office as undercover officers.

36 (B) Records of the number of undercover officers and

1 agency lists are not exempt from this chapter;

2 (11) Records containing measures, procedures, instructions, or
3 related data used to cause a computer or a computer system or network,
4 including telecommunication networks or applications thereon to perform
5 security functions, including, but not limited to, passwords, personal
6 identification numbers, transaction authorization mechanisms, and other means
7 of preventing access to computers, computer systems or networks, or any data
8 residing therein;

9 (12) Personnel records to the extent that disclosure would
10 constitute a clearly unwarranted invasion of personal privacy;

11 (13) Home addresses of nonelected state employees contained in
12 employer records, except that the custodian of the records shall verify an
13 employee's city or county of residence or address on record upon request; ~~and~~

14 (14) Materials, information, examinations, and answers to
15 examinations utilized by boards and commissions for purposes of testing
16 applicants for licensure by state boards or commissions; and

17 (15)(A) Records, including analyses, investigations, studies,
18 reports, recommendations, requests for proposals, drawings, diagrams,
19 blueprints, and plans, containing information relating to security for any
20 public water system.

21 (B) The records shall include:

22 (i) Risk and vulnerability assessments;

23 (ii) Plans and proposals for preventing and
24 mitigating security risks;

25 (iii) Emergency response and recovery records;

26 (iv) Security plans and procedures; and

27 (v) Any other records containing information that,
28 if disclosed, might jeopardize or compromise efforts to secure and protect
29 the public water system.

30 (C) Subdivision (b)(15) of this section shall expire on
31 July 1, 2005.

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33 SECTION 3. Arkansas Code § 25-19-106(c), concerning open public
34 meetings, is amended to add an additional subdivision to read as follows:

35 (c)(1) Executive sessions will be permitted only for the purpose of
36 considering employment, appointment, promotion, demotion, disciplining, or

1 resignation of any public officer or employee. The specific purpose of the
 2 executive session shall be announced in public before going into executive
 3 session.

4 (2)(A) Only the person holding the top administrative position
 5 in the public agency, department, or office involved, the immediate
 6 supervisor of the employee involved, and the employee may be present at the
 7 executive session when so requested by the governing body, board, commission,
 8 or other public body holding the executive session.

9 (B) Any person being interviewed for the top
 10 administrative position in the public agency, department, or office involved
 11 may be present at the executive session when so requested by the governing
 12 board, commission, or other public body holding the executive session.

13 (3) Executive sessions must never be called for the purpose of
 14 defeating the reason or the spirit of this chapter.

15 (4) No resolution, ordinance, rule, contract, regulation, or
 16 motion considered or arrived at in executive session will be legal unless,
 17 following the executive session, the public body reconvenes in public session
 18 and presents and votes on the resolution, ordinance, rule, contract,
 19 regulation, or motion.

20 (5)(A) Boards and commissions of this state may meet in
 21 executive session for purposes of preparing examination materials and answers
 22 to examination materials which are administered to applicants for licensure
 23 from state agencies.

24 (B) Boards and commissions are excluded from this chapter
 25 for the administering of examinations to applicants for licensure.

26 (6)(A) Subject to the provisions of subdivision (c)(4) of this
 27 section, any public agency may meet in executive session for the purpose of
 28 considering, evaluating, or discussing matters pertaining to public water
 29 system security as described in § 25-19-105(b)(15).

30 (B) Subdivision (c)(6) of this section shall expire on
 31 July 1, 2005.

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 33 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 34 General Assembly of the State of Arkansas that safe and secure water systems
 35 are vital to the health and well being of the citizens of this state; that
 36 information concerning the safety and security of public water systems

1 subject to disclosure under the Arkansas Freedom of Information Act could be
2 obtained for terroristic purposes, including contamination and destruction of
3 public water systems; and that this act is immediately necessary to deter
4 these acts, and to protect the security of public water systems. Therefore,
5 an emergency is declared to exist and this act being immediately necessary
6 for the preservation of the public peace, health, and safety shall become
7 effective on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,
10 the expiration of the period of time during which the Governor may veto the
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is
13 overridden, the date the last house overrides the veto.

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16 APPROVED: 3/27/2003
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