

By: Representative Turner

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 158

1 AN ACT TO AMEND SECTION 25-61-9, MISSISSIPPI CODE OF 1972, TO
2 AMEND THE MISSISSIPPI PUBLIC RECORDS ACT TO PROVIDE THAT UNIT
3 PRICES CONTAINED WITHIN PROCUREMENT CONTRACTS SHALL NOT BE DEEMED
4 TO BE TRADE SECRETS OR CONFIDENTIAL COMMERCIAL OR FINANCIAL
5 INFORMATION; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 25-61-9, Mississippi Code of 1972, is
8 amended as follows:

9 25-61-9. (1) Records furnished to public bodies by third
10 parties which contain trade secrets or confidential commercial or
11 financial information shall not be subject to inspection,
12 examination, copying or reproduction under this chapter until
13 notice to third parties has been given, but the records shall be
14 released no later than twenty-one (21) days from the date the
15 third parties are given notice by the public body unless the third
16 parties have filed in chancery court a petition seeking a
17 protective order on or before the expiration of the twenty-one-day
18 time period. Any party seeking the protective order shall give



19 notice to the party requesting the information in accordance with
20 the Mississippi Rules of Civil Procedure.

21 (2) If any public record which is held to be exempt from
22 disclosure pursuant to this chapter contains material which is not
23 exempt pursuant to this chapter, the public body shall separate
24 the exempt material and make the nonexempt material available for
25 examination or copying, or both, as provided for in this chapter.

26 (3) Trade secrets and confidential commercial and financial
27 information of a proprietary nature developed by a college,
28 university or public hospital under contract with a firm,
29 business, partnership, association, corporation, individual or
30 other like entity shall not be subject to inspection, examination,
31 copying or reproduction under this chapter.

32 (4) Misappropriation of a trade secret shall be governed by
33 the provisions of the Mississippi Uniform Trade Secrets Act,
34 Sections 75-26-1 through 75-26-19.

35 (5) A waste minimization plan and any updates developed by
36 generators and facility operators under the Mississippi
37 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
38 retained at the facility and shall not be subject to inspection,
39 examination, copying or reproduction under this chapter.

40 (6) Data processing software obtained by an agency under a
41 licensing agreement that prohibits its disclosure and which
42 software is a trade secret, as defined in Section 75-26-3, and
43 data processing software produced by a public body which is



44 sensitive must not be subject to inspection, copying or
45 reproduction under this chapter.

46 As used in this subsection, "sensitive" means only those
47 portions of data processing software, including the specifications
48 and documentation, used to:

49 (a) Collect, process, store, and retrieve information
50 which is exempt under this chapter.

51 (b) Control and direct access authorizations and
52 security measures for automated systems.

53 (c) Collect, process, store, and retrieve information,
54 disclosure of which would require a significant intrusion into the
55 business of the public body.

56 (7) For all procurement contracts awarded by state agencies,
57 the provisions of the contract which contain the commodities
58 purchased or the personal or professional services provided, the
59 unit prices contained within the procurement contracts, the
60 overall price to be paid, and the term of the contract shall not
61 be deemed to be a trade secret or confidential commercial or
62 financial information under this section, and shall be available
63 for examination, copying or reproduction as provided for in this
64 chapter. Any party seeking a protective order for a procurement
65 contract awarded by state agencies shall give notice to and
66 provide the reasons for the protective order to the party
67 requesting the information in accordance with the Mississippi
68 Rules of Civil Procedure. The notice and reasons for the



69 protective order must be posted on the Mississippi procurement
70 portal for a minimum of seven (7) days before filing the petition
71 seeking the protective order in chancery court. Any party seeking
72 a protective order in violation of this subsection may be barred
73 by a state agency from submitting bids, proposals or
74 qualifications for procurement for a period not to exceed five (5)
75 years.

76 **SECTION 2.** This act shall take effect and be in force from
77 and after July 1, 2018.

