

Legislative Analysis



FOIA EXEMPTIONS FOR DTMB PROCUREMENT

Phone: (517) 373-8080
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Senate Bill 69 (S-1)

Sponsor: Sen. Rick Jones

House Committee: Michigan Competitiveness

Senate Committee: Government Operations

Complete to 2-27-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY AS REPORTED FROM HOUSE COMMITTEE WITHOUT AMENDMENT:

Senate Bill 69 (S-1) would amend the Management and Budget Act (MCL 18.1261) to exempt certain business information from the Freedom of Information Act (FOIA) when that business is applying for state government service and purchase contracts through the Department of Technology, Management, and Budget (DTMB).

Under SB 69, when the DTMB uses its competitive solicitation process for state procurement contracts, the following records would be exempt from FOIA:

- A bid, quote, or proposal submitted for a contract, and records created in the preparation and evaluation of the bid, quote, or proposal until the time of final notification of the contract's award.
- Records containing a trade secret, as defined in the Uniform Trade Secrets Act.
- Financial or proprietary information submitted, defined in the bill as "information that has not been publicly disseminated or which is unavailable from other sources, the release of which might cause the submitter of the information competitive harm."

DISCUSSION:

The bill is understood to address two existing problems. First, companies can use a FOIA request to access the bid information of competitors; they can then use this information to set the optimal price to receive the contract, which may be lower than what they were otherwise willing to bid. Second, certain companies simply refuse to bid on state contracts because of the lack of protection for their trade secrets and financial and proprietary information.

POSITIONS:

- Representatives from the DTMB testified in support of the bill. (2-22-17)
- A representative of the Detroit Salt Company indicated support for the bill. (2-22-17)

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local governments.

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