



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 69 (as introduced 1-26-17)
Sponsor: Senator Rick Jones
Committee: Government Operations

Date Completed: 2-7-17

CONTENT

The bill would amend the Management and Budget Act to provide that certain records related to purchasing and contracting by the Department of Technology, Management, and Budget would be exempt from the Freedom of Information Act.

Section 261 of the Management and Budget Act requires the Department to provide for the purchase of, the contracting for, and the provision of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items needed by State agencies for which the Legislature has not expressly provided otherwise. Section 261 requires the Department to use competitive solicitation for all purchases authorized under the Act unless specific conditions apply; give preference to products made or services offered by Michigan-based firms; and, in awarding contracts, give preference to qualified disabled veterans,. The Department may delegate its procurement authority to other State agencies within dollar limitations and for designated types of procurements.

The bill would exempt the following records from disclosure under the Freedom of Information Act:

- A bid, quote, or proposal submitted in connection with the authority granted under Section 261, and records created in the evaluation of the bid, quote, or proposal until the time of final notification of award of the contract.
- Records containing a trade secret as defined in the Uniform Trade Secrets Act, or financial or proprietary information submitted in connection with the authority granted under Section 261.

The bill would define "financial or proprietary information" as information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the submitter of the information competitive harm.

(The Uniform Trade Secrets Act defines "trade secret" as information, including a formula, pattern, compilation, program, device, method, technique, or process, that satisfies both of the following:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other people who can obtain economic value from its disclosure or use.
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.)

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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