



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 20, 2023

The Honorable Steve Watkins
Mayor, City of Quitman
Post Office Box 16
Quitman, Mississippi 39355-0016

Re: Public Records Act

Dear Mayor Watkins:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Is a mayor's written veto considered a public document?
2. If so, does it become a public document the moment it is filed and accepted by the city clerk, or at some other time, such as the board meeting where the written veto is reviewed, discussed, and considered for override by the Board of Aldermen?
3. If it is considered a public document, may it be given to anyone asking for a copy such as the local newspaper?
4. Is a written veto considered a public document even if the vote being vetoed by the Board of Aldermen was a vote taken in executive session?

Brief Response

1. Yes. A written veto is a public record under the Mississippi Public Records Act of 1983.
2. A written veto is not required to be filed and accepted by the city clerk or presented for discussion at a board meeting to be considered a public record. A veto is subject to disclosure under the Public Records Act once it meets the definition of a "public record" under Mississippi Code Annotated Section 25-61-3(b).

3. Yes. The Mississippi Public Records Act of 1983 requires that public records must be available for inspection by *any person*.” Miss. Code Ann. § 25-61-2 (emphasis added).
4. Yes, but if the veto contains material that is exempt from disclosure under the Public Records Act, the governing authorities of the city must “redact the exempted material and make the nonexempted material available for inspection.” Miss. Code Ann. § 25-61-5(2).

Applicable Law and Discussion

According to the Mississippi Public Records Act of 1983 (“Public Records Act”), public records of a public body must be available for inspection and copying by any person in accordance with reasonable written procedures adopted by the public body unless the subject records are exempt from production. Miss. Code Ann. §§ 25-61-1, *et seq.* The Public Records Act defines public records as follows:

[A]ll books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, 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 of any public body, or required to be maintained by any public body. . . .

Miss. Code Ann. § 25-61-3(b). In order to veto an ordinance, resolution, or order, the mayor of a code charter municipality must “return it to the board of aldermen by delivering it to the municipal clerk together with a written statement setting forth his objections thereto or to any item or part thereof” in accordance with the provisions of Section 21-3-15(2), (3) (“Mayor’s duties and powers; authority of board of aldermen”). This section goes on to provide that the board may “by a vote of two-thirds (2/3) of the members of the board, resolve to override the mayor’s veto.” Generally speaking, this veto and any accompanying board minutes are public records as defined by the Public Records Act. There is no statutory provision that exempts vetoes from production under the Public Records Act. As your request suggests, there may be situations in which a veto includes information that is exempt from production, if, for example, it references confidential information that was discussed in executive session pursuant to Section 25-41-7 (“Public body holding executive sessions”). In that circumstance, the municipality should redact the portion of the veto that is exempt from production as required by Section 25-61-5(2).

Consistent with prior opinions of this office and decisions of the Mississippi Ethics Commission, it is the opinion of this office that a veto does not have to be filed with the clerk or presented to a board to meet the definition of a “public record.” *See* MS AG Op., *Tindall* (Jan. 2, 1986) (opining that transcribed minutes are subject to production under the Public Records Act and should be marked “unofficial” or “unapproved” if produced prior to approval by the board); *Jonathan F. Griffith v. City of Lumberton*, Public Records Case Nos. R-21-032, R-22-022 and R-22-023 (Consolidated) (stating that once board minutes are typed, they are a public record, even before board approval).

Hon. Steve Watkins

July 20, 2023

Page 3

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION