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# **Oversight, Transparency & Public Management Subcommittee**

**Thursday, January 16, 2020  
9:00 AM – 11:00 AM  
Morris Hall (17 HOB)**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Oversight, Transparency & Public Management Subcommittee

**Start Date and Time:** Thursday, January 16, 2020 09:00 am

**End Date and Time:** Thursday, January 16, 2020 11:00 am

**Location:** Morris Hall (17 HOB)

**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 593 Disability Retirement Benefits by Williamson

HB 799 Pub. Rec./Trade Secrets by Gregory

HB 801 Public Records by Gregory

HB 821 Pub. Rec and Meetings/Information Technology Security Information by Williamson

**Consideration of the following proposed committee bill(s):**

PCB OTM 20-08 -- OGSR/ Servicemembers and Families

PCB OTM 20-09 -- OGSR/Child Abuse Death Review Committees

**NOTICE FINALIZED on 01/14/2020 4:07PM by Jones.Brenda**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 593 Disability Retirement Benefits

**SPONSOR(S):** Williamson

**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 936

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee		Villa	Smith
2) Appropriations Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits for employees of the state and county government agencies, district school boards, state colleges, and universities; it also serves as the retirement plan for participating employees of the cities and special districts that have elected to join the system. Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan.

The FRS provides disability retirement benefits for certain members that are totally and permanently disabled to the extent that they are unable to work. Currently, in order to qualify for disability retirement benefits, members must provide certification of the member's total and permanent disability from two licensed physicians in this state, or if the member is required to work full time outside this state in the United States, then the member can provide certification from two licensed physicians of that state.

The bill allows an FRS member who is receiving care at a federal Veterans' Health Administration facility to provide certification by two licensed physicians employed by the facility as proof of total and permanent disability; regardless of the state the physicians are licensed.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Trust Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated into the FRS as a closed group.<sup>1</sup>

The FRS is a multi-employer, contributory plan governed by the Florida Retirement System Act.<sup>2</sup> As of June 30, 2018, the FRS had 643,333 active members,<sup>3</sup> 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).<sup>4</sup> As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 173 cities and 267 special districts that have elected to join the system.<sup>5</sup>

The membership of the FRS is divided into five membership classes:

- Regular Class<sup>6</sup> has 559,346 members;
- Special Risk Class<sup>7</sup> has 73,618 members;
- Special Risk Administrative Support Class<sup>8</sup> has 87 members;
- Elected Officers' Class<sup>9</sup> has 2,170 members; and
- Senior Management Service Class<sup>10</sup> has 8,088 members.<sup>11</sup>

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

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<sup>1</sup> *Florida Retirement System Pension Plan and Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018*, at 35. A copy of the report can be found at:

[https://www.dms.myflorida.com/workforce\\_operations/retirement/publications/annual\\_reports](https://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports) [hereinafter *Annual Report*].

<sup>2</sup> See Chapter 121, F.S.

<sup>3</sup> As of June 30, 2018, the FRS pension plan, which is a defined benefit plan, had 518,545 members, and the investment plan, which is a defined contribution plan, had 124,788 members. *Annual Report*, *supra* note 1, at 160.

<sup>4</sup> *Annual Report*, *supra* note 1, at 160.

<sup>5</sup> *Annual Report*, *supra* note 1, at 196.

<sup>6</sup> The Regular Class members is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>7</sup> The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

<sup>8</sup> The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

<sup>9</sup> The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

<sup>10</sup> The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service Designation. Section 121.055, F.S.

<sup>11</sup> All figures from *Annual Report*, *supra* note 1, at 163.

### FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.<sup>12</sup> The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>13</sup>

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vest immediately in all employee contributions paid to the investment plan.<sup>14</sup> With respect to the employer contributions, a member vests after completing one work year with an FRS employer.<sup>15</sup> Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>16</sup>

The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.<sup>17</sup> An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.<sup>18</sup>

### FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement.<sup>19</sup> Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.<sup>20</sup> For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>21</sup> A member vests immediately in all employee contributions paid to the pension plan. Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.<sup>22</sup>

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.<sup>23</sup> For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.<sup>24</sup> Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.<sup>25</sup>

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<sup>12</sup> Section 121.4501(8), F.S.

<sup>13</sup> Art. IV, s. 4(e), FLA. CONST.

<sup>14</sup> Section 121.4501(6)(a), F.S.

<sup>15</sup> If a member terminated employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

<sup>16</sup> Section 121.591, F.S.

<sup>17</sup> See Section 121.4501(16), F.S.

<sup>18</sup> Florida Retirement System, *Disability*, [https://myfrs.com/FRSPro\\_ComparePlan\\_Disability.htm](https://myfrs.com/FRSPro_ComparePlan_Disability.htm) (last visited December 10, 2019).

<sup>19</sup> Section 121.025, F.S.

<sup>20</sup> Section 121.021(45)(a), F.S.

<sup>21</sup> Section 121.021(45)(b), F.S.

<sup>22</sup> Section 121.091, F.S.

<sup>23</sup> Section 121.021(29)(a)1., F.S.

<sup>24</sup> Section 121.021(9)(b)1., F.S.

<sup>25</sup> Section 121.021(9)(a)2. and (b)2., F.S.

### Disability Retirement Benefit

There are two types of disability retirement benefits available under the FRS: in-line-of-duty and regular disability. In-line-of-duty disability benefits are available to members from their first date of employment.<sup>26</sup> The minimum in-line-of-duty disability benefit is 42 percent of the member's average monthly compensation for all members except those in the Special Risk Class, who may not receive less than 65 percent of their average monthly compensation.<sup>27</sup> To qualify for regular disability retirement, members must complete eight years of credible service.<sup>28</sup> The minimum benefit under regular disability is 25 percent of the member's average monthly compensation.<sup>29</sup> If a disabled member's service benefit would be higher than the minimum disability benefit, the member can elect to receive the higher benefit.

A member cannot receive any disability retirement benefit if the disability is a result of any of the following:

- Injury or disease sustained by the member while willfully participating in a riot, civil insurrection, or other act of violence or while committing a felony;
- Injury or disease sustained by the member after his or her employment has terminated; or
- Intentional, self-inflicted injury.<sup>30</sup>

To qualify for either type of disability retirement benefit, members must be totally and permanently disabled to the extent that they are unable to work.<sup>31</sup> DMS must require proof that the FRS member is totally and permanently disabled before approving any disability retirement payment. The proof must include the certification of the member's total and permanent disability by two licensed physicians in this state. If a member's position with an employer requires that the member work full time outside this state in the United States, then the member may include certification by two licensed physicians of the state where the member works.<sup>32</sup> Regardless, it must be documented that the:

- Member's medical condition occurred or became symptomatic during the time the member was employed.
- Member was totally and permanently disabled at the time he or she terminated covered employment.
- Member has not been employed after such termination.

In addition, for in-line-of-duty benefits, it must be documented that the disability was caused by a job-related illness or accident which occurred while the member was an FRS employee.<sup>33</sup>

### Federal Veterans' Health Administration Facility

The Veterans' Health Administration (VA) is the largest healthcare network in the United States serving over 9 million enrolled veterans, and is made up of 1,255 health care facilities, including 170 medical centers and 1,074 outpatient sites of varying complexity.<sup>34</sup> The mission of the VA is to honor America's veterans by providing exceptional health care that improves their health and well-being.<sup>35</sup> Each VA medical center provides traditional hospital-based services, and most offer specialty care services such as speech pathology, dermatology, dental, geriatrics, neurology, oncology, podiatry, prosthetics, urology, and vision care.<sup>36</sup>

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<sup>26</sup> Section 121.091(4)(a)1.b., F.S.

<sup>27</sup> Section 121.091(4)(f), F.S.

<sup>28</sup> Section 121.091(4)(a)1.b., F.S.

<sup>29</sup> Section 121.091(4)(f), F.S.

<sup>30</sup> Section 121.091(4)(i), F.S.

<sup>31</sup> Section 121.091(4), F.S.

<sup>32</sup> Section 121.091(4)(c), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> U.S. Department of Veterans Affairs, <https://www.va.gov/health/aboutvha.asp> (last visited January 10, 2020).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

Many VA physicians on staff are on rotation throughout the country and are not necessarily Florida-licensed physicians.<sup>37</sup> However, each VA physician must possess at least one full, active, current, and unrestricted license that authorizes the licensee to practice in the state of licensure.<sup>38</sup> A physician who has had his or her license revoked for professional misconduct, professional incompetence, or substandard care is not eligible to work as a VA physician unless the license is restored to a full and unrestricted status.<sup>39</sup> Additionally, the VA consults with the National Practitioner Data Bank, which provides a background check for each new hire.<sup>40</sup> Physician applicants must also provide the VA with employment history, pre-employment references, and details of past involvement with malpractice allegations.<sup>41</sup>

### **Effect of the Bill**

For proof of total and permanent disability, the bill allows an FRS member who is receiving care at a federal Veterans' Health Administration facility to provide certification by two licensed physicians employed by the facility; regardless of the state the physicians are licensed. This change will allow FRS members receiving care from such a facility to more timely and conveniently prove total and permanent disability as the FRS member would no longer have to go outside his or her current medical care provider to obtain certification of disability.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 121.091, F.S., to allow members receiving care at a federal Veterans' Health Care Administration facility to use certification by two licensed physicians at that facility as proof of total and permanent disability.

Section 2 provides an effective date of July 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

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<sup>37</sup> Department of Management Services, Agency Analysis of 2020 House Bill 593, p. 2 (December 23, 2019).

<sup>38</sup> U.S. Department of Veterans Affairs, Veterans Health Administration Handbook 1100.19, available at: <https://www.va.gov/vhapublications/publications.cfm?pub=2> (last visited 1/14/20).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*



D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not require agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                   A bill to be entitled  
2           An act relating to disability retirement benefits;  
3           amending s. 121.091, F.S.; allowing members receiving  
4           care at federal Veterans' Health Administration  
5           facilities to use certification by a specified number  
6           of physicians working at such facilities as proof of  
7           total and permanent disability; providing an effective  
8           date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12           Section 1. Paragraph (c) of subsection (4) of section  
13   121.091, Florida Statutes, is amended to read:

14           121.091 Benefits payable under the system.—Benefits may  
15   not be paid under this section unless the member has terminated  
16   employment as provided in s. 121.021(39) (a) or begun  
17   participation in the Deferred Retirement Option Program as  
18   provided in subsection (13), and a proper application has been  
19   filed in the manner prescribed by the department. The department  
20   may cancel an application for retirement benefits when the  
21   member or beneficiary fails to timely provide the information  
22   and documents required by this chapter and the department's  
23   rules. The department shall adopt rules establishing procedures  
24   for application for retirement benefits and for the cancellation  
25   of such application when the required information or documents

26 | are not received.

27 | (4) DISABILITY RETIREMENT BENEFIT.—

28 | (c) Proof of disability.—The administrator, before  
29 | approving payment of any disability retirement benefit, shall  
30 | require proof that the member is totally and permanently  
31 | disabled as provided herein:

32 | 1. Such proof shall include the certification of the  
33 | member's total and permanent disability by two licensed  
34 | physicians of the state and such other evidence of disability as  
35 | the administrator may require, including reports from vocational  
36 | rehabilitation, evaluation, or testing specialists who have  
37 | evaluated the applicant for employment. A member whose position  
38 | with an employer requires that the member work full time outside  
39 | this state in the United States may include certification by two  
40 | licensed physicians of the state where the member works. A  
41 | member who is receiving care at a federal Veterans' Health  
42 | Administration facility may include certification by two  
43 | licensed physicians working at the facility.

44 | 2. It must be documented that:

45 | a. The member's medical condition occurred or became  
46 | symptomatic during the time the member was employed in an  
47 | employee/employer relationship with his or her employer;

48 | b. The member was totally and permanently disabled at the  
49 | time he or she terminated covered employment; and

50 | c. The member has not been employed with any other

51 | employer after such termination.

52 |         3. If the application is for in-line-of-duty disability,  
53 | in addition to the requirements of subparagraph 2., it must be  
54 | documented by competent medical evidence that the disability was  
55 | caused by a job-related illness or accident which occurred while  
56 | the member was in an employee/employer relationship with his or  
57 | her employer.

58 |         4. The unavailability of an employment position that the  
59 | member is physically and mentally capable of performing will not  
60 | be considered as proof of total and permanent disability.

61 |         Section 2. This act shall take effect July 1, 2020.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 799 Pub. Rec./Trade Secrets

**SPONSOR(S):** Gregory

**TIED BILLS:** HB 801 **IDEN./SIM. BILLS:** SB 1532

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee		Villa	Smith
2) Commerce Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. Some exemptions also provide a specific process that an agency must use when protecting trade secret information under the exemption.

House Bill 801 (2020), which this bill is linked to, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

This bill creates a public record exemption for trade secrets that applies to most agencies that are subject to public record requirements.

The bill defines the term “trade secret” and specifically excludes from the definition certain information related to any contract or agreement, or an addendum thereto, with an agency. Such information includes the parties to the contract or agreement; the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties; the nature or type of commodities or services purchased; and applicable contract unit prices and deliverables.

The bill requires a person who submits a record claimed to contain a trade secret to an agency to mark the record clearly with the words “trade secret” and to submit with the record a notice verifying, under penalty of perjury, that the record contains a trade secret.

The bill provides for repeal of the exemption on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the Florida Constitution.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments.

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a).<sup>1</sup> The general law must state with specificity the public necessity justifying the exemption<sup>2</sup> and must be no more broad than necessary to accomplish its purpose.<sup>3</sup>

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>4</sup> provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:<sup>5</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>6</sup> Specified questions must be considered by the Legislature during the review process.<sup>7</sup>

##### Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt<sup>8</sup> from public record requirements. Some exemptions only protect trade secrets, while others protect "proprietary business information" and define that term to specifically include trade secrets.

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<sup>1</sup> Art. I, s. 24(c), FLA. CONST.

<sup>2</sup> This portion of a public record exemption is commonly referred to as a "public necessity statement."

<sup>3</sup> Art. I, s. 24(c), FLA. CONST.

<sup>4</sup> Section 119.15, F.S.

<sup>5</sup> Section 119.15(6)(b), F.S.

<sup>6</sup> Section 119.15(3), F.S.

<sup>7</sup> Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>8</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

The following are examples of public record exemptions for trade secrets:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(9), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of Transportation as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2) and (3)(b) and 403.73, F.S., makes trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers' compensation employer compliance investigations confidential and exempt;
- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation confidential and exempt; and
- Section 815.04(3), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions of the term. Some of the exemptions define the term in accordance with Florida's criminal statutes, which define the term as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;



3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.<sup>9</sup>

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,<sup>10</sup> which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>11</sup>

In addition, some exemptions provide a specific process that an agency<sup>12</sup> must use when protecting trade secret information under the exemption. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, and some exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.<sup>13</sup>

#### House Bill 801 (2020)

House Bill 801 (2020), which this bill is linked to, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

#### **Effect of the Bill**

The bill, which is linked to the passage of HB 801 (2020) or similar legislation, creates a public record exemption for trade secrets that applies to most agencies that are subject to public record requirements.

The bill defines the term “trade secret” to have the same meaning as the definition currently codified in the Uniform Trade Secrets Act, which includes information that is a formula, pattern, compilation, program, device, method, technique, or process that:

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

However, the bill specifically excludes from the definition the following information related to any contract or agreement, or an addendum thereto, with an agency:

- The parties to the contract or agreement, or an addendum thereto.

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<sup>9</sup> Section 812.081(1)(c), F.S.

<sup>10</sup> Sections 688.001 through 688.009, F.S.

<sup>11</sup> Section 688.002(4), F.S.

<sup>12</sup> The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

<sup>13</sup> See s. 381.83, F.S.

- The amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties.
- The nature or type of commodities or services purchased.
- Applicable contract unit prices and deliverables.

The bill requires a person who submits a record claimed to contain a trade secret to an agency to mark the record clearly with the words "trade secret" and to submit with the record a notice verifying that the record contains a trade secret. Verification occurs by signing a written declaration under penalty of perjury. Failure to submit the notice constitutes a waiver of any claim by the submitter that the record contains a trade secret.

The bill authorizes an agency to disclose a trade secret, together with the notice of trade secret, to an officer or employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.

The bill specifies that an agency employee who, while acting in good faith and in the performance of his or her duties, releases records pursuant to the process created by the bill is not liable, civilly or criminally, for release of the records.

The bill also specifies that the public record exemption does not apply to research institutes created or established in law, divisions of sponsored research at state universities, or technology transfer centers at Florida College System institutions.

The bill provides a public necessity statement as required by the Florida Constitution, specifying that the public record exemption is necessary to protect trade secret information provided to an agency by an individual or business because disclosure of such information to competitors of those businesses would be detrimental to the business. In addition, the exemption is necessary to protect trade secret information created by an agency in furtherance of the agency's duties and responsibilities, and disclosure of such information would be detrimental to the effective and efficient operation of the agency.

The bill provides for repeal of the exemption on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

## B. SECTION DIRECTORY:

Section 1 creates s. 688.01, F.S., relating to a trade secret exemption from inspecting or copying public records.

Section 2 amends s. 688.001, F.S., relating to a short title.

Section 3 amends s. 688.006, F.S., relating to preservation of secrecy.

Section 4 provides a public necessity statement.

Section 5 provides an effective date of the same date that HB 801 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have an impact on state government revenues.

#### 2. Expenditures:

See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to creation of the public record exemption. In addition, agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for trade secrets held by an agency. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to public records; creating s. 688.01,  
 3           F.S.; providing definitions; providing an exemption  
 4           from public record requirements for a trade secret  
 5           held by an agency; providing notice requirements;  
 6           providing an exception to the exemption; providing  
 7           that an agency employee is not liable for the release  
 8           of records in compliance with the act; providing  
 9           applicability; providing for future legislative review  
 10          and repeal of the exemption; amending ss. 688.001 and  
 11          688.006, F.S.; conforming cross-references; providing  
 12          a statement of public necessity; providing a  
 13          contingent effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1.   Section 688.01, Florida Statutes, is created to  
 18   read:

19           688.01 Trade secret exemption from inspecting or copying  
 20   public records.-

21           (1) DEFINITIONS.-As used in this section, the term:

22           (a) "Agency" has the same meaning as in s. 119.011.

23           (b) "Trade secret" has the same meaning as in s. 688.002,  
 24   except that the term does not include the following information  
 25   related to any contract or agreement, or an addendum thereto,

26 with an agency:

27 1. The parties to the contract or agreement, or an  
28 addendum thereto.

29 2. The amount of money paid, any payment structure or  
30 plan, expenditures, incentives, bonuses, fees, or penalties.

31 3. The nature or type of commodities or services  
32 purchased.

33 4. Applicable contract unit prices and deliverables.

34 (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an  
35 agency is confidential and exempt from s. 119.07(1) and s.  
36 24(a), Art. I of the State Constitution.

37 (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.—

38 (a) If a person who submits records to an agency claims  
39 that such submission contains a trade secret, such person shall  
40 submit to the agency a notice of trade secret at the time such  
41 records are submitted to the agency. Failure to do so  
42 constitutes a waiver of any claim by such person that the record  
43 contains a trade secret. The notice must provide the name,  
44 telephone number, and mailing address of the person claiming the  
45 record contains a trade secret. Such person is responsible for  
46 updating his or her contact information with the agency.

47 (b) Each page of a record or specific portion of a record  
48 that contains a trade secret must be clearly marked with the  
49 words "trade secret."

50        (c) In submitting a notice of trade secret to the agency,  
51 the submitting party must verify to the agency through a written  
52 declaration in the manner provided in s. 92.525 the following:

53  
54        [...I have/my company has...] read the definition of a  
55 trade secret in s. 688.01, Florida Statutes, and [...I  
56 believe/my company believes...] the information contained in  
57 this record is a trade secret as defined in s. 688.01, Florida  
58 Statutes.

59        [...I have/my company has...] taken measures to prevent the  
60 disclosure of the record or specific portion of a record claimed  
61 to be a trade secret to anyone other than those who have been  
62 selected to have access for limited purposes, and [...I  
63 intend/my company intends...] to continue to take such measures.

64        The record or specific portion of a record claimed to be a  
65 trade secret is not, and has not been, reasonably obtainable  
66 without [...my/our...] consent by other persons by use of  
67 legitimate means.

68        The record or specific portion of a record claimed to be a  
69 trade secret is not publicly available elsewhere.

70  
71        (4) AGENCY ACCESS.—An agency may disclose a trade secret,  
72 together with the notice of trade secret, to an officer or  
73 employee of another agency or governmental entity whose use of  
74 the trade secret is within the scope of his or her lawful duties

75 | and responsibilities.

76 |       (5) LIABILITY.—An agency employee who, while acting in  
77 | good faith and in the performance of his or her duties, releases  
78 | a record containing a trade secret pursuant to this act is not  
79 | liable, civilly or criminally, for such release.

80 |       (6) APPLICABILITY.—This section does not apply to research  
81 | institutes created or established in law, divisions of sponsored  
82 | research at state universities, or technology transfer centers  
83 | at Florida College System institutions.

84 |       (7) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
85 | to the Open Government Sunset Review Act in accordance with s.  
86 | 119.15 and shall stand repealed on October 2, 2025, unless  
87 | reviewed and saved from repeal through reenactment by the  
88 | Legislature.

89 |       Section 2. Section 688.001, Florida Statutes, is amended  
90 | to read:

91 |       688.001 Short title.—Sections 688.001-688.01 ~~Sections~~  
92 | ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

93 |       Section 3. Section 688.006, Florida Statutes, is amended  
94 | to read:

95 |       688.006 Preservation of secrecy.—In an action under ss.  
96 | 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the  
97 | secrecy of an alleged trade secret by reasonable means, which  
98 | may include granting protective orders in connection with  
99 | discovery proceedings, holding in camera hearings, sealing the



100 records of the action, and ordering any person involved in the  
101 litigation not to disclose an alleged trade secret without prior  
102 court approval.

103       Section 4. The Legislature finds that it is a public  
104 necessity that trade secrets held by an agency be made  
105 confidential and exempt from s. 119.07(1), Florida Statutes, and  
106 s. 24(a), Article I of the State Constitution. The Legislature  
107 recognizes that an agency may create trade secret information in  
108 furtherance of the agency's duties and responsibilities and that  
109 disclosure of such information would be detrimental to the  
110 effective and efficient operation of the agency. If such trade  
111 secret information were made available to the public, the agency  
112 could suffer great economic harm. In addition, the Legislature  
113 recognizes that in many instances, individuals and businesses  
114 provide trade secret information for regulatory or other  
115 purposes to an agency and that disclosure of such information to  
116 competitors of those businesses would be detrimental to the  
117 businesses. Without the public record exemption, those entities  
118 would hesitate to cooperate with an agency, which would impair  
119 the effective and efficient administration of governmental  
120 functions. As such, the Legislature's intent is to protect trade  
121 secret information of a confidential nature that includes a  
122 formula, pattern, compilation, program, device, method,  
123 technique, or process used that derives independent economic  
124 value, actual or potential, from not being generally known to,

125 | and not being readily ascertainable by proper means by, other  
126 | persons who can obtain economic value from its disclosure or  
127 | use. Therefore, the Legislature finds that the need to protect  
128 | trade secrets is sufficiently compelling to override this  
129 | state's public policy of open government and that the protection  
130 | of such information cannot be accomplished without this  
131 | exemption.

132 |       Section 5. This act shall take effect on the same date  
133 | that HB 801 or similar legislation takes effect, if such  
134 | legislation is adopted in the same legislative session or an  
135 | extension thereof and becomes a law.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 801 Public Records

**SPONSOR(S):** Gregory

**TIED BILLS:** HB 799 **IDEN./SIM. BILLS:** SB 1534

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Oversight, Transparency & Public Management Subcommittee		Villa	Smith
2) Commerce Committee			
3) State Affairs Committee			

**SUMMARY ANALYSIS**

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. While some of the exemptions do not define the term “trade secret,” a majority of them rely on one of two different statutory definitions: the definition contained in Florida’s criminal law statutes or the definition in the Uniform Trade Secrets Act. Some exemptions also provide a specific process that an agency must use when protecting trade secret information under the exemption.

House Bill 799 (2020), which this bill is linked to, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. That bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

This bill repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.

The bill repeals s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Public Records

Article I, s. 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a).<sup>1</sup> The general law must state with specificity the public necessity justifying the exemption<sup>2</sup> and must be no more broad than necessary to accomplish its purpose.<sup>3</sup>

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>4</sup> provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:<sup>5</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.

Florida's Second District Court of Appeal has held that an amendment eliminating a public record exemption applies prospectively from the effective date of the amendment.<sup>6</sup> Further, s. 119.15(7), F.S., provides that records created before the date of the repeal of an exemption may not be made public unless otherwise provided by law.

##### Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt<sup>7</sup> from public record requirements. Some exemptions only protect trade secrets, while others protect "proprietary business information" and define that term to specifically include trade secrets.

The following are examples of public record exemptions for trade secrets:

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<sup>1</sup> Art. I, s. 24(c), FLA. CONST.

<sup>2</sup> This portion of a public record exemption is commonly referred to as a "public necessity statement."

<sup>3</sup> Art. I, s. 24(c), FLA. CONST.

<sup>4</sup> Section 119.15, F.S.

<sup>5</sup> Section 119.15(6)(b), F.S.

<sup>6</sup> *Baker v. Eckerd Corporation*, 697 So. 2d 970 (Fla. 2d DCA 1997).

<sup>7</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(9), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of Transportation as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2) and (3)(b) and 403.73, F.S., makes trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers' compensation employer compliance investigations confidential and exempt;
- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation confidential and exempt; and
- Section 815.04(3), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions of the term. Some of the exemptions define the term in accordance with Florida's criminal statutes, which define the term as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and

4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.<sup>8</sup>

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,<sup>9</sup> which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>10</sup>

In addition, some exemptions provide a specific process that an agency<sup>11</sup> must use when protecting trade secret information under the exemption. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, and some exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.<sup>12</sup>

Section 815.045, F.S., contains the statement of public necessity<sup>13</sup> for a public record exemption for data, programs, or supporting documentation that is a trade secret as defined in s. 812.081, F.S., that is held by an agency as defined in chapter 119, F.S., and that resides or exists internal or external to a computer, computer system, computer network, or electronic device. In *SePRO Corporation v. Florida Department of Environmental Protection*,<sup>14</sup> the public necessity statement was interpreted by a district court to be a public record exemption. This interpretation had the result of extending protection to certain information that had been filed with an agency.

#### House Bill 799 (2020)

House Bill 799 (2020), which this bill is linked to, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

#### **Effect of the Bill**

The bill, which is linked to the passage of HB 799 (2020) or similar legislation, repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade

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<sup>8</sup> Section 812.081(1)(c), F.S.

<sup>9</sup> Sections 688.001 through 688.009, F.S.

<sup>10</sup> Section 688.002(4), F.S.

<sup>11</sup> The term “agency” is defined to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

<sup>12</sup> See s. 381.83, F.S.

<sup>13</sup> Section 815.045, F.S., which begins “[t]he Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt” is the required public necessity statement for s. 815.04(3), F.S., and it was inadvertently codified in the Florida Statutes. Public necessity statements are codified in the Laws of Florida.

<sup>14</sup> See *SePRO Corporation v. Florida Department of Environmental Protection*, 839 So. 2d 781 (Fla. 1st DCA 2003).

secret, and most references to trade secrets contained in definitions for proprietary business information.

The bill repeals s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

The bill specifies that trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute, the Florida Institute for Human and Machine Cognition, Inc., and divisions of sponsored research at state universities are confidential and exempt if they meet the definition of “trade secret” in HB 799.

The bill also authorizes the Florida Office of Insurance Regulation (OIR) to make information reported to and collected by OIR available on an aggregate basis, even if marked trade secret pursuant to HB 799 (2020).

## B. SECTION DIRECTORY:

Section 1. amends s. 73.0155, F.S., deleting provisions relating to public records exemptions for trade secrets held by governmental condemning authorities.

Section 2. amends s. 119.071, F.S., deleting a provision declaring that certain data processing software exempt from public records requirements is considered a trade secret; removing the scheduled repeal of the public record exemption.

Section 3. amends s. 119.0713, F.S., deleting a provision exempting trade secrets held by local government agencies from public records requirements.

Section 4. amends s. 125.0104, F.S., deleting a provision exempting trade secrets held by county tourism development agencies from public records requirements.

Section 5. amends s. 163.01, F.S., deleting a provision exempting trade secrets held by public agencies that are electric utilities from public records requirements.

Section 6. amends s. 202.195, F.S., deleting a provision exempting trade secrets obtained from a telecommunications company or franchised cable company for certain purposes from public records requirements.

Section 7. amends s. 215.4401, F.S., deleting provisions relating to confidentiality of trade secrets held by the State Board of Administration.

Section 8. amends s. 252.88, F.S., deleting provisions exempting certain information from public records requirements under the Florida Emergency Planning Community Right-to-Know Act.

Section 9. repeals s. 252.943, F.S., relating to a public record exemption under the Florida Accidental Release Prevention and Risk Management Planning Act.

Section 10. amends s. 287.0943, F.S., deleting provisions relating to confidentiality of certain information relating to applications for certification of minority business enterprises.

Section 11. amends s. 288.047, F.S., deleting a provision exempting potential trade secrets from public records requirements.

Section 12. amends s. 288.075, F.S., deleting provisions relating to a public records exemption for trade secrets held by economic development agencies.

Section 13. amends s. 288.1226, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Florida Tourism Industry Marketing Corporation.



Section 14. amends s. 288.776, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Export Finance Corporation.

Section 15. amends s. 288.9520, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by Enterprise Florida, Inc., and related entities.

Section 16. amends s. 288.9607, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Development Finance Corporation.

Section 17. amends s. 288.9626, F.S., deleting provisions relating to a public record exemption for trade secret and potential trade secrets held by the Florida Opportunity Fund; conforming provisions to changes made by the act.

Section 18. amends s. 288.9627, F.S., deleting provisions relating to a public records exemption for trade secrets and potential trade secrets held by the Institute for Commercialization of Florida Technology; conforming provisions to changes made by the act.

Section 19. amends s. 331.326, F.S., deleting provisions relating to a public records exemption for trade secrets held by Space Florida; conforming a provision to changes made by the act.

Section 20. amends s. 334.049, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Department of State.

Sections 21. and 22. amend ss. 350.121 and 364.183, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

Section 23. amends s. 365.174, F.S., deleting provisions relating to public record exemptions for trade secrets held by the E911 Board and the Division of State Technology within the Department of Management Services.

Section 24., 25., and 26. amend ss. 366.093, 367.156, and 368.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

Section 27. repeals s. 381.83, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Health.

Section 28. amends s. 395.3035, F.S., deleting provisions relating to a public record exemption for trade secrets of hospitals.

Section 29. amends s. 403.7046, F.S., revising provisions relating to a public record exemption for trade secrets contained in certain reports to the Department of Environmental Protection.

Section 30. repeals s. 403.73, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Environmental Protection.

Section 31. amends s. 408.061, F.S., deleting a requirement that certain trade secret information submitted to the Agency for Healthcare Administration be clearly designated as such.

Section 32. amends s. 408.185, F.S., deleting provisions relating to public record exemptions for certain trade secrets held by the Office of the Attorney General.

Section 33. amends s. 408.910, F.S., deleting provisions relating to public record exemptions for trade secrets held by Florida Health Choices, Inc. as part of the Florida Health Choices Program.

Section 34. amends s. 409.91196, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Agency for Healthcare Administration; conforming provisions to changes made by the act.

Section 35. amends s. 440.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services.

Section 36. amends s. 494.00125, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 37. amends s. 497.172, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the Board of Funeral, Cemetery, and Consumer Services.

Section 38., 39., 40., and 41. amend ss. 499.012, 499.0121, 499.05, and 499.051, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Business and Professional Regulation.

Section 42. repeals s. 499.931, F.S., relating to maintenance of information held by the Department of Business and Professional Regulation that is deemed to be a trade secret.

Section 43. amends s. 501.171, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Legal Affairs.

Section 44. repeals s. 502.222, F.S., relating to trade secrets of a dairy business held by DACS.

Section 45. and 46. amend ss. 517.2015 and 520.9965, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 47. amends s. 526.311, F.S., deleting provisions relating to public record exemptions for trade secrets held by DACS.

Section 48. amends s. 548.062, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida State Boxing Commission.

Section 49. amends s. 556.113, F.S., deleting provisions relating to public record exemptions for trade secrets held by Sunshine State One-Call of Florida, Inc.

Section 50. amends s. 559.5558, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 51. amends s. 559.9285, F.S., revising provisions specifying that certain information provided to DACS does not constitute a trade secret.

Section 52. amends s. 560.129, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 53. amends s. 570.48, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Fruit and Vegetables within DACS.

Section 54. amends s. 570.544, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Consumer Services within DACS.

Section 55. amends s. 573.123, F.S., deleting provisions relating to public record exemptions for trade secrets held by DACS.

Section 56. repeals s. 581.199, F.S., relating to a prohibition on the use of trade secret information obtained under specified provisions for personal use or gain.

Sections 57., 58., and 59. amend ss. 601.10, 601.15, and 601.152, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Citrus within DACS.

Section 60. amends s. 601.76, F.S., relating to a public record exemption for certain formulas filed with DACS.

Sections 61. and 62. amend ss. 607.0505 and 617.0503, F.S., deleting provisions relating to public record exemptions for certain information that might reveal trade secrets held by the Department of Legal Affairs.

Section 63. amends s. 624.307, F.S., authorizing the Florida Office of Insurance Regulation to report certain information on an aggregate basis.

Section 64. amends s. 624.315, F.S., authorizing the Florida Office of Insurance Regulation to make certain information available on an aggregate basis.

Section 65. amends s. 624.4212, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Office of Insurance Regulation.

Section 66. repeals s. 624.4213, F.S., relating to trade secret documents submitted to the Department of Financial Services or the Florida Office of Insurance Regulation.

Sections 67. and 68. amend ss. 626.84195 and 626.884, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Office of Insurance Regulation.

Section 69. amends s. 626.9936, F.S., revising provisions relating to a public record exemption for trade secrets held by the Florida Office of Insurance Regulation.

Section 70. amends s. 627.0628, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Hurricane Loss Projection Methodology; conforming a provision to changes made by the act.

Section 71. amends s. 627.3518, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Citizens Property Insurance Corporation.

Section 72. amends s. 655.057, F.S., deleting and revising provisions relating to a public record exemption for trade secrets held by the Office of Financial Regulation.

Section 73. repeals s. 655.0591, F.S., relating to trade secret documents held by the Office of Financial Regulation.

Section 74. amends s. 663.533, F.S., revising a cross-reference.

Section 75. repeals s. 721.071, F.S., relating to trade secret documents filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Section 76. amends s. 815.04, F.S., deleting a public record exemption for certain trade secret information relating to offenses against intellectual property.

Section 77. repeals s. 815.045, F.S., relating to trade secret information.

Section 78. amends s. 1004.22, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets received, generated, ascertained, or discovered during the course of research conducted within the state universities.

Section 79. amends s. 1004.30, F.S., revising provisions relating to public record exemptions for trade secrets held by state university health support organizations.

Section 80. amends s. 1004.43, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute.

Section 81. amends s. 1004.4472, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the Florida Institute for Human and Machine Cognition, Inc.

Section 82. amends s. 1004.78, F.S., deleting provisions relating to public record exemptions for trade secrets and potential trade secrets held by the technology transfer centers at Florida College System institutions.

Section 83. amends s. 601.80, F.S., correcting a cross-reference.

Sections 84., 85., and 86. amend ss. 663.533, 721.13, and 921.0022, F.S., conforming provisions to changes made by the act.

Section 87. provides an effective date of becoming a law if HB 799 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill does not appear to have an impact on state revenues.

#### **2. Expenditures:**

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The bill does not appear to have an impact on local government revenues.

#### **2. Expenditures:**

See Fiscal Comments.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to the repeal of the public record exemptions or the change in the definition of the term "trade secret." The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create the need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           73.0155, F.S.; deleting provisions relating to public  
4           records exemptions for trade secrets held by  
5           governmental condemning authorities; amending s.  
6           119.071, F.S.; deleting a provision declaring that  
7           certain data processing software exempt from public  
8           records requirements is considered a trade secret;  
9           removing the scheduled repeal of the public record  
10          exemption; amending s. 119.0713, F.S.; deleting a  
11          provision exempting trade secrets held by local  
12          government agencies from public records requirements;  
13          amending s. 125.0104, F.S.; deleting a provision  
14          exempting trade secrets held by county tourism  
15          development agencies from public records requirements;  
16          amending s. 163.01, F.S.; deleting a provision  
17          exempting trade secrets held by public agencies that  
18          are electric utilities from public records  
19          requirements; amending s. 202.195, F.S.; deleting a  
20          provision exempting trade secrets obtained from a  
21          telecommunications company or franchised cable company  
22          for certain purposes from public records requirements;  
23          amending s. 215.4401, F.S.; deleting provisions  
24          relating to confidentiality of trade secrets held by  
25          the State Board of Administration; amending s. 252.88,

26 F.S.; deleting provisions exempting certain  
27 information from public records requirements under the  
28 Florida Emergency Planning and Community Right-to-Know  
29 Act; repealing s. 252.943, F.S., relating to a public  
30 records exemption under the Florida Accidental Release  
31 Prevention and Risk Management Planning Act; amending  
32 s. 287.0943, F.S.; deleting provisions relating to  
33 confidentiality of certain information relating to  
34 applications for certification of minority business  
35 enterprises; amending s. 288.047, F.S.; deleting  
36 provisions exempting potential trade secrets from  
37 public records requirements; amending s. 288.075,  
38 F.S.; deleting provisions relating to a public records  
39 exemption for trade secrets held by economic  
40 development agencies; amending s. 288.1226, F.S.;  
41 deleting provisions relating to a public records  
42 exemption for trade secrets held by the Florida  
43 Tourism Industry Marketing Corporation; amending s.  
44 288.776, F.S.; deleting provisions relating to a  
45 public records exemption for trade secrets held by the  
46 Florida Export Finance Corporation; amending s.  
47 288.9520, F.S.; deleting provisions relating to a  
48 public records exemption for trade secrets and  
49 potential trade secrets held by Enterprise Florida,  
50 Inc., and related entities; amending s. 288.9607,

51 F.S.; deleting provisions relating to a public records  
52 exemption for trade secrets held by the Florida  
53 Development Finance Corporation; amending s. 288.9626,  
54 F.S.; deleting provisions relating to a public records  
55 exemption for trade secrets and potential trade  
56 secrets held by the Florida Opportunity Fund;  
57 conforming provisions to changes made by the act;  
58 amending s. 288.9627, F.S.; deleting provisions  
59 relating to a public records exemption for trade  
60 secrets and potential trade secrets held by the  
61 Institute for Commercialization of Florida Technology;  
62 conforming provisions to changes made by the act;  
63 amending s. 331.326, F.S.; deleting provisions  
64 relating to a public records exemption for trade  
65 secrets held by Space Florida; amending s. 334.049,  
66 F.S.; deleting provisions relating to a public records  
67 exemption for trade secrets held by the Department of  
68 State; amending ss. 350.121 and 364.183, F.S.;

69 deleting provisions relating to public records  
70 exemptions for trade secrets held by the Florida  
71 Public Service Commission; amending 365.174, F.S.;

72 deleting provisions relating to public records  
73 exemptions for trade secrets held by the E911 Board  
74 and the Technology Program within the Department of  
75 Management Services; amending ss. 366.093, 367.156,



76 | and 368.108, F.S.; deleting provisions relating to  
77 | public records exemptions for trade secrets held by  
78 | the Florida Public Service Commission; repealing s.  
79 | 381.83, F.S., relating to confidentiality of certain  
80 | information containing trade secrets obtained by the  
81 | Department of Health; amending s. 395.3035, F.S.;  
82 | deleting provisions relating to a public records  
83 | exemption for trade secrets of hospitals; amending s.  
84 | 403.7046, F.S.; revising provisions relating to an  
85 | exemption for trade secrets contained in certain  
86 | reports to the Department of Environmental Protection;  
87 | repealing s. 403.73, F.S., relating to confidentiality  
88 | of certain information containing trade secrets  
89 | obtained by the Department of Environmental  
90 | Protection; amending s. 408.061, F.S.; deleting a  
91 | requirement that certain trade secret information  
92 | submitted to the Agency for Healthcare Administration  
93 | be clearly designated as such; amending s. 408.185,  
94 | F.S.; deleting provisions relating to public records  
95 | exemptions for certain trade secrets held by the  
96 | Office of the Attorney General; amending s. 408.910,  
97 | F.S.; deleting provisions relating to public records  
98 | exemptions for trade secrets held by the Florida  
99 | Health Choices Program; amending s. 409.91196, F.S.;  
100 | deleting provisions relating to public records

101 exemptions for trade secrets held by the Agency for  
102 Healthcare Administration; amending s. 440.108, F.S.;  
103 deleting provisions relating to public records  
104 exemptions for trade secrets held by the Department of  
105 Financial Services; amending s. 494.00125, F.S.;  
106 deleting provisions relating to public records  
107 exemptions for trade secrets held by the Office of  
108 Financial Regulation; amending s. 497.172, F.S.;  
109 deleting provisions relating to public records  
110 exemptions for trade secrets held by the Department of  
111 Financial Services or the Board of Funeral, Cemetery,  
112 and Consumer Services; amending ss. 499.012, 499.0121,  
113 499.05, and 499.051, F.S.; deleting provisions  
114 relating to public records exemptions for trade  
115 secrets held by the Department of Business and  
116 Professional Regulation; repealing s. 499.931, F.S.,  
117 relating to maintenance of information held by the  
118 Department of Business and Professional Regulation  
119 that is deemed to be a trade secret; amending s.  
120 501.171, F.S.; deleting provisions relating to public  
121 records exemptions for trade secrets held by the  
122 Department of Legal Affairs; repealing s. 502.222,  
123 F.S., relating to trade secrets of a dairy business  
124 held by the Department of Agriculture and Consumer  
125 Services; amending ss. 517.2015 and 520.9965, F.S.;

126 deleting provisions relating to public records  
127 exemptions for trade secrets held by the Office of  
128 Financial Regulation; amending s. 526.311, F.S.;  
129 deleting provisions relating to public records  
130 exemptions for trade secrets held by the Department of  
131 Agriculture and Consumer Services; amending s.  
132 548.062, F.S.; deleting provisions relating to public  
133 records exemptions for trade secrets held by the  
134 Florida State Boxing Commission; amending s. 556.113,  
135 F.S.; deleting provisions relating to public records  
136 exemptions for trade secrets held by Sunshine State  
137 One-Call of Florida, Inc.; amending s. 559.5558, F.S.;  
138 deleting provisions relating to public records  
139 exemptions for trade secrets held by the Office of  
140 Financial Regulation; amending s. 559.9285, F.S.;  
141 revising provisions specifying that certain  
142 information provided to the Department of Agriculture  
143 and Consumer Services does not constitute a trade  
144 secret; amending s. 560.129, F.S.; deleting provisions  
145 relating to public records exemptions for trade  
146 secrets held by the Office of Financial Regulation;  
147 amending s. 570.48, F.S.; deleting provisions relating  
148 to public records exemptions for trade secrets held by  
149 the Division of Fruit and Vegetables; amending ss.  
150 570.544 and 573.123, F.S.; deleting provisions

151 relating to public records exemptions for trade  
152 secrets held by the Division of Consumer Services;  
153 repealing s. 581.199, F.S., relating to a prohibition  
154 on the use of trade secret information obtained under  
155 specified provisions for personal use or gain;  
156 amending ss. 601.10, 601.15, and 601.152, F.S.;  
157 deleting provisions relating to public records  
158 exemptions for trade secrets held by the Department of  
159 Citrus; amending s. 601.76, F.S.; deleting provisions  
160 relating to a public records exemption for certain  
161 formulas filed with the Department of Agriculture;  
162 amending ss. 607.0505 and 617.0503, F.S.; deleting  
163 provisions relating to public records exemptions for  
164 certain information that might reveal trade secrets  
165 held by the Department of Legal Affairs; amending s.  
166 624.307, F.S.; authorizing the Office of Insurance  
167 Regulation to report certain information on an  
168 aggregate basis; amending s. 624.315, F.S.;  
169 authorizing the Office of Insurance Regulation to make  
170 certain information available on an aggregate basis;  
171 amending s. 624.4212, F.S.; deleting provisions  
172 relating to public records exemptions for trade  
173 secrets held by the Office of Insurance Regulation;  
174 revising a cross-reference; repealing s. 624.4213,  
175 F.S., relating to trade secret documents submitted to

176 the Department of Financial Services or the Office of  
177 Insurance Regulation; amending ss. 626.84195 and  
178 626.884, F.S.; deleting provisions relating to public  
179 records exemptions for trade secrets held by the  
180 Office of Insurance Regulation; amending s. 626.9936,  
181 F.S.; revising provisions relating to a public records  
182 exemption for trade secrets held by the Office of  
183 Insurance Regulation; amending ss. 627.0628 and  
184 627.3518, F.S.; deleting provisions relating to public  
185 records exemptions for trade secrets held by the  
186 Department of Financial Services or the Office of  
187 Insurance Regulation; amending s. 655.057, F.S.;  
188 revising provisions relating to a public records  
189 exemption for trade secrets held by the Office of  
190 Financial Regulation; repealing s. 655.0591, F.S.,  
191 relating to trade secret documents held by the Office  
192 of Financial Regulation; amending s. 663.533, F.S.;  
193 revising a cross-reference; repealing s. 721.071,  
194 F.S., relating to trade secret material filed with the  
195 Division of Florida Condominiums, Timeshares, and  
196 Mobile Homes of the Department of Business and  
197 Professional Regulation; amending s. 815.04, F.S.;  
198 deleting a public records exemption for certain trade  
199 secret information relating to offenses against  
200 intellectual property; repealing s. 815.045, F.S.,

201 relating to trade secret information; amending s.  
202 1004.22, F.S.; revising provisions relating to public  
203 records exemptions for trade secrets and potential  
204 trade secrets received, generated, ascertained, or  
205 discovered during the course of research conducted  
206 within the state universities; amending s. 1004.30,  
207 F.S.; revising provisions relating to public records  
208 exemptions for trade secrets held by state university  
209 health support organizations; amending s. 1004.43,  
210 F.S.; revising provisions relating to public records  
211 exemptions for trade secrets and potential trade  
212 secrets held by the H. Lee Moffitt Cancer Center and  
213 Research Institute; amending s. 1004.4472, F.S.;  
214 revising provisions relating to public records  
215 exemptions for trade secrets and potential trade  
216 secrets held by the Florida Institute for Human and  
217 Machine Cognition, Inc.; amending s. 1004.78, F.S.;  
218 revising provisions relating to public records  
219 exemptions for trade secrets and potential trade  
220 secrets held by the technology transfers centers at  
221 Florida College System institutions; amending s.  
222 601.80, F.S.; correcting a cross-reference; amending  
223 ss. 663.533, 721.13, and 921.0022, F.S.; conforming  
224 provisions to changes made by the act; providing a  
225 contingent effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) of subsection (1) of section 73.0155, Florida Statutes, is amended to read:

73.0155 Confidentiality; business information provided to a governmental condemning authority.—

(1) The following business information provided by the owner of a business to a governmental condemning authority as part of an offer of business damages under s. 73.015 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the owner requests in writing that the business information be held confidential and exempt:

(e) Materials that relate to methods of manufacture or production or, ~~potential trade secrets~~, patentable material, ~~or actual trade secrets as defined in s. 688.002.~~

Section 2. Paragraph (f) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(f) ~~Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and~~ Agency-produced data processing software that is sensitive is

251 ~~are~~ exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
252 Constitution. The designation of agency-produced software as  
253 sensitive does not prohibit an agency head from sharing or  
254 exchanging such software with another public agency. ~~This~~  
255 ~~paragraph is subject to the Open Government Sunset Review Act in~~  
256 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
257 ~~2021, unless reviewed and saved from repeal through reenactment~~  
258 ~~by the Legislature.~~

259 Section 3. Paragraph (a) of subsection (4) of section  
260 119.0713, Florida Statutes, is amended to read:

261 119.0713 Local government agency exemptions from  
262 inspection or copying of public records.—

263 (4) (a) Proprietary confidential business information means  
264 information, regardless of form or characteristics, which is  
265 held by an electric utility that is subject to this chapter, is  
266 intended to be and is treated by the entity that provided the  
267 information to the electric utility as private in that the  
268 disclosure of the information would cause harm to the entity  
269 providing the information or its business operations, and has  
270 not been disclosed unless disclosed pursuant to a statutory  
271 provision, an order of a court or administrative body, or a  
272 private agreement that provides that the information will not be  
273 released to the public. Proprietary confidential business  
274 information includes:

275 ~~1. Trade secrets, as defined in s. 688.002.~~



276 |        ~~1.2.~~ Internal auditing controls and reports of internal  
277 | auditors.

278 |        ~~2.3.~~ Security measures, systems, or procedures.

279 |        ~~3.4.~~ Information concerning bids or other contractual  
280 | data, the disclosure of which would impair the efforts of the  
281 | electric utility to contract for goods or services on favorable  
282 | terms.

283 |        ~~4.5.~~ Information relating to competitive interests, the  
284 | disclosure of which would impair the competitive business of the  
285 | provider of the information.

286 |        Section 4. Paragraph (d) of subsection (9) of section  
287 | 125.0104, Florida Statutes, is amended to read:

288 |        125.0104 Tourist development tax; procedure for levying;  
289 | authorized uses; referendum; enforcement.—

290 |        (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any  
291 | other powers and duties provided for agencies created for the  
292 | purpose of tourism promotion by a county levying the tourist  
293 | development tax, such agencies are authorized and empowered to:

294 |        (d) Undertake marketing research and advertising research  
295 | studies and provide reservations services and convention and  
296 | meetings booking services consistent with the authorized uses of  
297 | revenue as set forth in subsection (5).

298 |        1. Information given to a county tourism promotion agency  
299 | which, if released, would reveal the identity of persons or  
300 | entities who provide data or other information as a response to

301 a sales promotion effort, an advertisement, or a research  
 302 project or whose names, addresses, meeting or convention plan  
 303 information or accommodations or other visitation needs become  
 304 booking or reservation list data, is exempt from s. 119.07(1)  
 305 and s. 24(a), Art. I of the State Constitution.

306 2. ~~The following information,~~ When held by a county  
 307 tourism promotion agency, booking business records, as defined  
 308 in s. 255.047, are is exempt from s. 119.07(1) and s. 24(a),  
 309 Art. I of the State Constitution.÷

310 a. ~~Booking business records, as defined in s. 255.047.~~

311 b. ~~Trade secrets and commercial or financial information~~  
 312 ~~gathered from a person and privileged or confidential, as~~  
 313 ~~defined and interpreted under 5 U.S.C. s. 552(b)(4), or any~~  
 314 ~~amendments thereto.~~

315 3. ~~A trade secret, as defined in s. 812.081, held by a~~  
 316 ~~county tourism promotion agency is exempt from s. 119.07(1) and~~  
 317 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~  
 318 ~~subject to the Open Government Sunset Review Act in accordance~~  
 319 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
 320 ~~unless reviewed and saved from repeal through reenactment by the~~  
 321 ~~Legislature.~~

322 Section 5. Paragraph (m) of subsection (15) of section  
 323 163.01, Florida Statutes, is amended to read:

324 163.01 Florida Interlocal Cooperation Act of 1969.—

325 (15) Notwithstanding any other provision of this section

326 or of any other law except s. 361.14, any public agency of this  
327 state which is an electric utility, or any separate legal entity  
328 created pursuant to the provisions of this section, the  
329 membership of which consists only of electric utilities, and  
330 which exercises or proposes to exercise the powers granted by  
331 part II of chapter 361, the Joint Power Act, may exercise any or  
332 all of the following powers:

333 (m) In the event that any public agency or any such legal  
334 entity, or both, should receive, in connection with its joint  
335 ownership or right to the services, output, capacity, or energy  
336 of an electric project, as defined in paragraph (3)(d), any  
337 material which is designated by the person supplying such  
338 material as proprietary confidential business information or  
339 which a court of competent jurisdiction has designated as  
340 confidential or secret shall be kept confidential and shall be  
341 exempt from the provisions of s. 119.07(1). As used in this  
342 paragraph, "proprietary confidential business information"  
343 ~~includes, but is not limited to, trade secrets;~~ internal  
344 auditing controls and reports of internal auditors; security  
345 measures, systems, or procedures; ~~information concerning bids or~~  
346 ~~other contractual data, the disclosure of which would impair the~~  
347 ~~efforts of the utility to contract for services on favorable~~  
348 ~~terms;~~ employee personnel information unrelated to compensation,  
349 duties, qualifications, or responsibilities; and formulas,  
350 patterns, devices, combinations of devices, ~~contract costs,~~ or

351 other information the disclosure of which would injure the  
352 affected entity in the marketplace.

353 Section 6. Subsection (2) of section 202.195, Florida  
354 Statutes, is amended to read:

355 202.195 Proprietary confidential business information;  
356 public records exemption.—

357 (2) For the purposes of this exemption, "proprietary  
358 confidential business information" includes maps, plans, billing  
359 and payment records, ~~trade secrets~~, or other information  
360 relating to the provision of or facilities for communications  
361 service:

362 (a) That is intended to be and is treated by the company  
363 as confidential;

364 (b) The disclosure of which would be reasonably likely to  
365 be used by a competitor to harm the business interests of the  
366 company; and

367 (c) That is not otherwise readily ascertainable or  
368 publicly available by proper means by other persons from another  
369 source in the same configuration as requested by the local  
370 governmental entity.

371  
372 Proprietary confidential business information does not include  
373 schematics indicating the location of facilities for a specific  
374 site that are provided in the normal course of the local  
375 governmental entity's permitting process.

376 Section 7. Paragraphs (a), (c), and (d) of subsection (3)  
377 of section 215.4401, Florida Statutes, are amended to read:

378 215.4401 Board of Administration; public record  
379 exemptions.—

380 (3)(a) As used in this subsection, the term:

381 1. "Alternative investment" means an investment by the  
382 State Board of Administration in a private equity fund, venture  
383 fund, hedge fund, or distress fund or a direct investment in a  
384 portfolio company through an investment manager.

385 2. "Alternative investment vehicle" means the limited  
386 partnership, limited liability company, or similar legal  
387 structure or investment manager through which the State Board of  
388 Administration invests in a portfolio company.

389 3. "Portfolio company" means a corporation or other  
390 issuer, any of whose securities are owned by an alternative  
391 investment vehicle or the State Board of Administration and any  
392 subsidiary of such corporation or other issuer.

393 4. "Portfolio positions" means individual investments in  
394 portfolio companies which are made by the alternative investment  
395 vehicles, including information or specific investment terms  
396 associated with any portfolio company investment.

397 5. "Proprietor" means an alternative investment vehicle, a  
398 portfolio company in which the alternative investment vehicle is  
399 invested, or an outside consultant, including the respective  
400 authorized officers, employees, agents, or successors in

401 interest, which controls or owns information provided to the  
402 State Board of Administration.

403 6. "Proprietary confidential business information" means  
404 information that has been designated by the proprietor when  
405 provided to the State Board of Administration as information  
406 that is owned or controlled by a proprietor; that is intended to  
407 be and is treated by the proprietor as private, the disclosure  
408 of which would harm the business operations of the proprietor  
409 and has not been intentionally disclosed by the proprietor  
410 unless pursuant to a private agreement that provides that the  
411 information will not be released to the public except as  
412 required by law or legal process, or pursuant to law or an order  
413 of a court or administrative body; and that concerns:

414 ~~a. Trade secrets as defined in s. 688.002.~~

415 a.b. Information provided to the State Board of  
416 Administration regarding a prospective investment in a private  
417 equity fund, venture fund, hedge fund, distress fund, or  
418 portfolio company which is proprietary to the provider of the  
419 information.

420 b.e. Financial statements and auditor reports of an  
421 alternative investment vehicle.

422 c.d. Meeting materials of an alternative investment  
423 vehicle relating to financial, operating, or marketing  
424 information of the alternative investment vehicle.

425 d.e. Information regarding the portfolio positions in

426 | which the alternative investment vehicles invest.

427 |     ~~e.f.~~ Capital call and distribution notices to investors of  
428 | an alternative investment vehicle.

429 |     ~~f.g.~~ Alternative investment agreements and related  
430 | records.

431 |     ~~g.h.~~ Information concerning investors, other than the  
432 | State Board of Administration, in an alternative investment  
433 | vehicle.

434 |     7. "Proprietary confidential business information" does  
435 | not include:

436 |         a. The name, address, and vintage year of an alternative  
437 | investment vehicle and the identity of the principals involved  
438 | in the management of the alternative investment vehicle.

439 |         b. The dollar amount of the commitment made by the State  
440 | Board of Administration to each alternative investment vehicle  
441 | since inception.

442 |         c. The dollar amount and date of cash contributions made  
443 | by the State Board of Administration to each alternative  
444 | investment vehicle since inception.

445 |         d. The dollar amount, on a fiscal-year-end basis, of cash  
446 | distributions received by the State Board of Administration from  
447 | each alternative investment vehicle.

448 |         e. The dollar amount, on a fiscal-year-end basis, of cash  
449 | distributions received by the State Board of Administration plus  
450 | the remaining value of alternative-vehicle assets that are

451 attributable to the State Board of Administration's investment  
452 in each alternative investment vehicle.

453 f. The net internal rate of return of each alternative  
454 investment vehicle since inception.

455 g. The investment multiple of each alternative investment  
456 vehicle since inception.

457 h. The dollar amount of the total management fees and  
458 costs paid on an annual fiscal-year-end basis by the State Board  
459 of Administration to each alternative investment vehicle.

460 i. The dollar amount of cash profit received by the State  
461 Board of Administration from each alternative investment vehicle  
462 on a fiscal-year-end basis.

463 j. A description of any compensation, fees, or expenses,  
464 including the amount or value, paid or agreed to be paid by a  
465 proprietor to any person to solicit the board to make an  
466 alternative investment or investment through an alternative  
467 investment vehicle. This does not apply to an executive officer,  
468 general partner, managing member, or other employee of the  
469 proprietor, who is paid by the proprietor to solicit the board  
470 to make such investments.

471 (c)1. Notwithstanding the provisions of paragraph (b), a  
472 request to inspect or copy a record under s. 119.07(1) that  
473 contains proprietary confidential business information shall be  
474 granted if the proprietor of the information fails, within a  
475 reasonable period of time after the request is received by the



476 State Board of Administration, to verify the following to the  
477 State Board of Administration through a written declaration in  
478 the manner provided by s. 92.525:

479 a. That the requested record contains proprietary  
480 confidential business information and the specific location of  
481 such information within the record;

482 ~~b. If the proprietary confidential business information is~~  
483 ~~a trade secret, a verification that it is a trade secret as~~  
484 ~~defined in s. 688.002;~~

485 ~~b.e.~~ That the proprietary confidential business  
486 information is intended to be and is treated by the proprietor  
487 as private, is the subject of efforts of the proprietor to  
488 maintain its privacy, and is not readily ascertainable or  
489 publicly available from any other source; and

490 ~~c.d.~~ That the disclosure of the proprietary confidential  
491 business information to the public would harm the business  
492 operations of the proprietor.

493 2. The State Board of Administration shall maintain a list  
494 and a description of the records covered by any verified,  
495 written declaration made under this paragraph.

496 (d) Any person may petition a court of competent  
497 jurisdiction for an order for the public release of those  
498 portions of any record made confidential and exempt by paragraph  
499 (b). Any action under this paragraph must be brought in Leon  
500 County, Florida, and the petition or other initial pleading

501 shall be served on the State Board of Administration and, if  
502 determinable upon diligent inquiry, on the proprietor of the  
503 information sought to be released. In any order for the public  
504 release of a record under this paragraph, the court shall make a  
505 finding ~~that the record or portion thereof is not a trade secret~~  
506 ~~as defined in s. 688.002,~~ that a compelling public interest is  
507 served by the release of the record or portions thereof which  
508 exceed the public necessity for maintaining the confidentiality  
509 of such record, and that the release of the record will not  
510 cause damage to or adversely affect the interests of the  
511 proprietor of the released information, other private persons or  
512 business entities, the State Board of Administration, or any  
513 trust fund, the assets of which are invested by the State Board  
514 of Administration.

515 Section 8. Subsection (1) of section 252.88, Florida  
516 Statutes, is amended to read:

517 252.88 Public records.—

518 (1) Whenever EPCRA authorizes an employer to exclude trade  
519 secret information from its submittals, the employer shall  
520 furnish the information so excluded to the commission upon  
521 request. ~~Such information shall be confidential and exempt from~~  
522 ~~the provisions of s. 119.07(1). The commission shall not~~  
523 ~~disclose such information except pursuant to a final~~  
524 ~~determination under s. 322 of EPCRA by the Administrator of the~~  
525 ~~Environmental Protection Agency that such information is not~~

526 ~~entitled to trade secret protection, or pursuant to an order of~~  
527 ~~court.~~

528 Section 9. Section 252.943, Florida Statutes, is repealed.

529 Section 10. Paragraph (h) of subsection (2) of section  
530 287.0943, Florida Statutes, is amended to read:

531 287.0943 Certification of minority business enterprises.-

532 (2)

533 (h) The certification procedures should allow an applicant  
534 seeking certification to designate on the application form the  
535 information the applicant considers to be proprietary,  
536 confidential business information. As used in this paragraph,  
537 "proprietary, confidential business information" includes, ~~but~~  
538 ~~is not limited to,~~ any information that would be exempt from  
539 public inspection pursuant to the provisions of chapter 119;  
540 ~~trade secrets;~~ internal auditing controls and reports; ~~contract~~  
541 ~~costs;~~ or other information the disclosure of which would injure  
542 the affected party in the marketplace or otherwise violate s.  
543 286.041. The executor in receipt of the application shall issue  
544 written and final notice of any information for which  
545 noninspection is requested but not provided for by law.

546 Section 11. Subsection (7) of section 288.047, Florida  
547 Statutes, is amended to read:

548 288.047 Quick-response training for economic development.-

549 (7) In providing instruction pursuant to this section,  
550 materials that relate to methods of manufacture or production,

551 ~~potential trade secrets,~~ business transactions, or proprietary  
552 information received, produced, ascertained, or discovered by  
553 employees of the respective departments, district school boards,  
554 community college district boards of trustees, or other  
555 personnel employed for the purposes of this section is  
556 confidential and exempt from the provisions of s. 119.07(1). The  
557 state may seek copyright protection for instructional materials  
558 and ancillary written documents developed wholly or partially  
559 with state funds as a result of instruction provided pursuant to  
560 this section, except for materials that are confidential and  
561 exempt from the provisions of s. 119.07(1).

562 Section 12. Paragraph (c) of subsection (1) and subsection  
563 (3) of section 288.075, Florida Statutes, are amended to read:

564 288.075 Confidentiality of records.—

565 (1) DEFINITIONS.—As used in this section, the term:

566 ~~(c) "Trade secret" has the same meaning as in s. 688.002.~~

567 ~~(3) TRADE SECRETS.—Trade secrets held by an economic~~  
568 ~~development agency are confidential and exempt from s. 119.07(1)~~  
569 ~~and s. 24(a), Art. I of the State Constitution.~~

570 Section 13. Subsection (9) of section 288.1226, Florida  
571 Statutes, is amended to read:

572 288.1226 Florida Tourism Industry Marketing Corporation;  
573 use of property; board of directors; duties; audit.—

574 (9) PUBLIC RECORDS EXEMPTION.—The identity of any person  
575 who responds to a marketing project or advertising research

576 project conducted by the corporation in the performance of its  
577 duties on behalf of Enterprise Florida, Inc., is ~~or trade~~  
578 ~~secrets as defined by s. 812.081 obtained pursuant to such~~  
579 ~~activities, are exempt from s. 119.07(1) and s. 24(a), Art. I of~~  
580 ~~the State Constitution. This subsection is subject to the Open~~  
581 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
582 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
583 ~~saved from repeal through reenactment by the Legislature.~~

584 Section 14. Paragraph (d) of subsection (3) of section  
585 288.776, Florida Statutes, is amended to read:

586 288.776 Board of directors; powers and duties.—

587 (3) The board shall:

588 (d) Adopt policies, including criteria, establishing which  
589 exporters and export transactions shall be eligible for  
590 insurance, coinsurance, loan guarantees, and direct, guaranteed,  
591 or collateralized loans which may be extended by the  
592 corporation. Pursuant to this subsection, the board shall  
593 include the following criteria:

594 1. Any individual signing any corporation loan application  
595 and loan or guarantee agreement shall have an equity in the  
596 business applying for financial assistance.

597 2. Each program shall exclusively support the export of  
598 goods and services by small and medium-sized businesses which  
599 are domiciled in this state. Priority shall be given to goods  
600 which have value added in this state.

601           3. Financial assistance shall only be extended when at  
602 least one of the following circumstances exists:

603           a. The assistance is required to secure the participation  
604 of small and medium-sized export businesses in federal, state,  
605 or private financing programs.

606           b. No conventional source of lender support is available  
607 for the business from public or private financing sources.

608  
609 Personal financial records, ~~trade secrets~~, or proprietary  
610 information of applicants shall be confidential and exempt from  
611 the provisions of s. 119.07(1).

612           Section 15. Section 288.9520, Florida Statutes, is amended  
613 to read:

614           288.9520 Public records exemption.—Materials that relate  
615 to methods of manufacture or production, ~~potential trade~~  
616 ~~secrets~~, potentially patentable material, ~~actual trade secrets~~,  
617 business transactions, financial and proprietary information,  
618 and agreements or proposals to receive funding that are  
619 received, generated, ascertained, or discovered by Enterprise  
620 Florida, Inc., including its affiliates or subsidiaries and  
621 partnership participants, such as private enterprises,  
622 educational institutions, and other organizations, are  
623 confidential and exempt from the provisions of s. 119.07(1) and  
624 s. 24(a), Art. I of the State Constitution, except that a  
625 recipient of Enterprise Florida, Inc., research funds shall make

626 available, upon request, the title and description of the  
627 research project, the name of the researcher, and the amount and  
628 source of funding provided for the project.

629 Section 16. Subsection (5) of section 288.9607, Florida  
630 Statutes, is amended to read:

631 288.9607 Guaranty of bond issues.—

632 (5) Personal financial records, ~~trade secrets,~~ or  
633 proprietary information of applicants delivered to or obtained  
634 by the corporation shall be confidential and exempt from the  
635 provisions of s. 119.07(1).

636 Section 17. Paragraph (f) of subsection (1), paragraph (a)  
637 of subsection (2), paragraph (a) of subsection (3), and  
638 paragraphs (b) and (c) of subsection (4) of section 288.9626,  
639 Florida Statutes, are amended to read:

640 288.9626 Exemptions from public records and public  
641 meetings requirements for the Florida Opportunity Fund.—

642 (1) DEFINITIONS.—As used in this section, the term:

643 (f)1. "Proprietary confidential business information"  
644 means information that has been designated by the proprietor  
645 when provided to the Florida Opportunity Fund as information  
646 that is owned or controlled by a proprietor; that is intended to  
647 be and is treated by the proprietor as private, the disclosure  
648 of which would harm the business operations of the proprietor  
649 and has not been intentionally disclosed by the proprietor  
650 unless pursuant to a private agreement that provides that the

651 information will not be released to the public except as  
652 required by law or legal process, or pursuant to law or an order  
653 of a court or administrative body; and that concerns:

654 ~~a.~~ Trade secrets as defined in s. 688.002.

655 a.b. Information provided to the Florida Opportunity Fund  
656 regarding an existing or prospective alternative investment in a  
657 private equity fund, venture capital fund, angel fund, or  
658 portfolio company that is proprietary to the provider of the  
659 information.

660 b.e. Financial statements and auditor reports of an  
661 alternative investment vehicle or portfolio company, unless  
662 publicly released by the alternative investment vehicle or  
663 portfolio company.

664 c.d. Meeting materials of an alternative investment  
665 vehicle or portfolio company relating to financial, operating,  
666 or marketing information of the alternative investment vehicle  
667 or portfolio company.

668 d.e. Information regarding the portfolio positions in  
669 which the alternative investment vehicles or Florida Opportunity  
670 Fund invest.

671 e.f. Capital call and distribution notices to investors or  
672 the Florida Opportunity Fund of an alternative investment  
673 vehicle.

674 f.g. Alternative investment agreements and related  
675 records.



676 ~~g.h.~~ Information concerning investors, other than the  
677 Florida Opportunity Fund, in an alternative investment vehicle  
678 or portfolio company.

679 2. "Proprietary confidential business information" does  
680 not include:

681 a. The name, address, and vintage year of an alternative  
682 investment vehicle or Florida Opportunity Fund and the identity  
683 of the principals involved in the management of the alternative  
684 investment vehicle or Florida Opportunity Fund.

685 b. The dollar amount of the commitment made by the Florida  
686 Opportunity Fund to each alternative investment vehicle since  
687 inception, if any.

688 c. The dollar amount and date of cash contributions made  
689 by the Florida Opportunity Fund to each alternative investment  
690 vehicle since inception, if any.

691 d. The dollar amount, on a fiscal-year-end basis, of cash  
692 or other fungible distributions received by the Florida  
693 Opportunity Fund from each alternative investment vehicle.

694 e. The dollar amount, on a fiscal-year-end basis, of cash  
695 or other fungible distributions received by the Florida  
696 Opportunity Fund plus the remaining value of alternative-vehicle  
697 assets that are attributable to the Florida Opportunity Fund's  
698 investment in each alternative investment vehicle.

699 f. The net internal rate of return of each alternative  
700 investment vehicle since inception.

701 g. The investment multiple of each alternative investment  
702 vehicle since inception.

703 h. The dollar amount of the total management fees and  
704 costs paid on an annual fiscal-year-end basis by the Florida  
705 Opportunity Fund to each alternative investment vehicle.

706 i. The dollar amount of cash profit received by the  
707 Florida Opportunity Fund from each alternative investment  
708 vehicle on a fiscal-year-end basis.

709 (2) PUBLIC RECORDS EXEMPTION.—

710 (a) The following records held by the Florida Opportunity  
711 Fund are confidential and exempt from s. 119.07(1) and s. 24(a),  
712 Art. I of the State Constitution:

713 1. Materials that relate to methods of manufacture or  
714 production, ~~potential trade secrets~~, or patentable material  
715 received, generated, ascertained, or discovered during the  
716 course of research or through research projects and that are  
717 provided by a proprietor.

718 2. Information that would identify an investor or  
719 potential investor who desires to remain anonymous in projects  
720 reviewed by the Florida Opportunity Fund.

721 3. Proprietary confidential business information regarding  
722 alternative investments for 7 years after the termination of the  
723 alternative investment.

724 (3) PUBLIC MEETINGS EXEMPTION.—

725 (a) That portion of a meeting of the board of directors

726 of the Florida Opportunity Fund at which information is  
727 discussed which is confidential and exempt under subsection (2)  
728 or s. 688.01 is exempt from s. 286.011 and s. 24(b), Art. I of  
729 the State Constitution.

730 (4) REQUEST TO INSPECT OR COPY A RECORD.—

731 (b) Notwithstanding the provisions of paragraph (2)(a), a  
732 request to inspect or copy a public record that contains  
733 proprietary confidential business information shall be granted  
734 if the proprietor of the information fails, within a reasonable  
735 period of time after the request is received by the Florida  
736 Opportunity Fund, to verify the following to the Florida  
737 Opportunity Fund through a written declaration in the manner  
738 provided by s. 92.525:

739 1. That the requested record contains proprietary  
740 confidential business information and the specific location of  
741 such information within the record;

742 ~~2. If the proprietary confidential business information is~~  
743 ~~a trade secret, a verification that it is a trade secret as~~  
744 ~~defined in s. 688.002;~~

745 ~~2.3.~~ That the proprietary confidential business  
746 information is intended to be and is treated by the proprietor  
747 as private, is the subject of efforts of the proprietor to  
748 maintain its privacy, and is not readily ascertainable or  
749 publicly available from any other source; and

750 ~~3.4.~~ That the disclosure of the proprietary confidential

751 business information to the public would harm the business  
752 operations of the proprietor.

753 (c)1. Any person may petition a court of competent  
754 jurisdiction for an order for the public release of those  
755 portions of any record made confidential and exempt by  
756 subsection (2).

757 2. Any action under this subsection must be brought in  
758 Orange County, and the petition or other initial pleading shall  
759 be served on the Florida Opportunity Fund and, if determinable  
760 upon diligent inquiry, on the proprietor of the information  
761 sought to be released.

762 3. In any order for the public release of a record under  
763 this subsection, the court shall make a finding that:

764 ~~a. The record or portion thereof is not a trade secret as~~  
765 ~~defined in s. 688.002;~~

766 a. b. A compelling public interest is served by the  
767 release of the record or portions thereof which exceed the  
768 public necessity for maintaining the confidentiality of such  
769 record; and

770 b. e. The release of the record will not cause damage to  
771 or adversely affect the interests of the proprietor of the  
772 released information, other private persons or business  
773 entities, or the Florida Opportunity Fund.

774 Section 18. Paragraph (b) of subsection (1), paragraph (a)  
775 of subsection (2), paragraph (a) of subsection (3), and

776 paragraphs (b) and (c) of subsection (4) of section 288.9627,  
777 Florida Statutes, are amended to read:

778 288.9627 Exemptions from public records and public  
779 meetings requirements for the Institute for Commercialization of  
780 Florida Technology.—

781 (1) DEFINITIONS.—As used in this section, the term:

782 (b)1. "Proprietary confidential business information"  
783 means information that has been designated by the proprietor  
784 when provided to the institute as information that is owned or  
785 controlled by a proprietor; that is intended to be and is  
786 treated by the proprietor as private, the disclosure of which  
787 would harm the business operations of the proprietor and has not  
788 been intentionally disclosed by the proprietor unless pursuant  
789 to a private agreement that provides that the information will  
790 not be released to the public except as required by law or legal  
791 process, or pursuant to law or an order of a court or  
792 administrative body; and that concerns:

793 ~~a. Trade secrets as defined in s. 688.002.~~

794 a.b. Financial statements and internal or external auditor  
795 reports of a proprietor corporation, partnership, or person  
796 requesting confidentiality under this statute, unless publicly  
797 released by the proprietor.

798 b.e. Meeting materials related to financial, operating,  
799 investment, or marketing information of the proprietor  
800 corporation, partnership, or person.

801 c.d. Information concerning private investors in the  
 802 proprietor corporation, partnership, or person.

803 2. "Proprietary confidential business information" does  
 804 not include:

805 a. The identity and primary address of the proprietor's  
 806 principals.

807 b. The dollar amount and date of the financial commitment  
 808 or contribution made by the institute.

809 c. The dollar amount, on a fiscal-year-end basis, of cash  
 810 repayments or other fungible distributions received by the  
 811 institute from each proprietor.

812 d. The dollar amount, if any, of the total management fees  
 813 and costs paid on an annual fiscal-year-end basis by the  
 814 institute.

815 (2) PUBLIC RECORDS EXEMPTION.—

816 (a) The following records held by the institute are  
 817 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 818 of the State Constitution:

819 1. Materials that relate to methods of manufacture or  
 820 production, ~~potential trade secrets~~, or patentable material  
 821 received, generated, ascertained, or discovered during the  
 822 course of research or through research projects conducted by  
 823 universities and other publicly supported organizations in this  
 824 state and that are provided to the institute by a proprietor.

825 2. Information that would identify an investor or

826 | potential investor who desires to remain anonymous in projects  
 827 | reviewed by the institute for assistance.

828 |         3. Any information received from a person from another  
 829 | state or nation or the Federal Government which is otherwise  
 830 | confidential or exempt pursuant to the laws of that state or  
 831 | nation or pursuant to federal law.

832 |         4. Proprietary confidential business information for 7  
 833 | years after the termination of the institute's financial  
 834 | commitment to the company.

835 |         (3) PUBLIC MEETINGS EXEMPTION.—

836 |         (a) That portion of a meeting of the institute's board of  
 837 | directors at which information is discussed which is  
 838 | confidential and exempt under subsection (2) or s. 688.01 is  
 839 | exempt from s. 286.011 and s. 24(b), Art. I of the State  
 840 | Constitution.

841 |         (4) REQUEST TO INSPECT OR COPY A RECORD.—

842 |         (b) Notwithstanding the provisions of paragraph (2)(a), a  
 843 | request to inspect or copy a public record that contains  
 844 | proprietary confidential business information shall be granted  
 845 | if the proprietor of the information fails, within a reasonable  
 846 | period of time after the request is received by the institute,  
 847 | to verify the following to the institute through a written  
 848 | declaration in the manner provided by s. 92.525:

849 |             1. That the requested record contains proprietary  
 850 | confidential business information and the specific location of

851 such information within the record;

852 ~~2. If the proprietary confidential business information is~~  
853 ~~a trade secret, a verification that it is a trade secret as~~  
854 ~~defined in s. 688.002;~~

855 2.3. That the proprietary confidential business  
856 information is intended to be and is treated by the proprietor  
857 as private, is the subject of efforts of the proprietor to  
858 maintain its privacy, and is not readily ascertainable or  
859 publicly available from any other source; and

860 3.4. That the disclosure of the proprietary confidential  
861 business information to the public would harm the business  
862 operations of the proprietor.

863 (c)1. Any person may petition a court of competent  
864 jurisdiction for an order for the public release of those  
865 portions of any record made confidential and exempt by  
866 subsection (2).

867 2. Any action under this subsection must be brought in  
868 Palm Beach County or Alachua County, and the petition or other  
869 initial pleading shall be served on the institute and, if  
870 determinable upon diligent inquiry, on the proprietor of the  
871 information sought to be released.

872 3. In any order for the public release of a record under  
873 this subsection, the court shall make a finding that:

874 ~~a. The record or portion thereof is not a trade secret as~~  
875 ~~defined in s. 688.002;~~



876 ~~a.b.~~ A compelling public interest is served by the release  
877 of the record or portions thereof which exceed the public  
878 necessity for maintaining the confidentiality of such record;  
879 and

880 ~~b.e.~~ The release of the record will not cause damage to or  
881 adversely affect the interests of the proprietor of the released  
882 information, other private persons or business entities, or the  
883 institute.

884 Section 19. Section 331.326, Florida Statutes, is amended  
885 to read:

886 331.326 Information relating to trade secrets  
887 confidential.—The records of Space Florida regarding matters  
888 encompassed by this act are public records subject to chapter  
889 119. ~~Any information held by Space Florida which is a trade~~  
890 ~~secret, as defined in s. 812.081, including trade secrets of~~  
891 ~~Space Florida, any spaceport user, or the space industry~~  
892 ~~business, is confidential and exempt from s. 119.07(1) and s.~~  
893 ~~24(a), Art. I of the State Constitution and may not be~~  
894 ~~disclosed. If Space Florida determines that any information~~  
895 ~~requested by the public will reveal a trade secret, it shall, in~~  
896 ~~writing, inform the person making the request of that~~  
897 ~~determination. The determination is a final order as defined in~~  
898 ~~s. 120.52.~~ Any meeting or portion of a meeting of Space  
899 Florida's board is exempt from s. 286.011 and s. 24(b), Art. I  
900 of the State Constitution when the board is discussing trade

901 secrets as defined in s. 688.01. Any public record generated  
 902 during the closed portions of the meetings, such as minutes,  
 903 tape recordings, and notes, is confidential and exempt from s.  
 904 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This~~  
 905 ~~section is subject to the Open Government Sunset Review Act in~~  
 906 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 907 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 908 ~~by the Legislature.~~

909 Section 20. Subsection (4) of section 334.049, Florida  
 910 Statutes, is amended to read:

911 334.049 Patents, copyrights, trademarks; notice to  
 912 Department of State; ~~confidentiality of trade secrets.~~

913 ~~(4) Any information obtained by the department as a result~~  
 914 ~~of research and development projects and revealing a method of~~  
 915 ~~process, production, or manufacture which is a trade secret as~~  
 916 ~~defined in s. 688.002, is confidential and exempt from the~~  
 917 ~~provisions of s. 119.07(1).~~

918 Section 21. Section 350.121, Florida Statutes, is amended  
 919 to read:

920 350.121 Commission inquiries; confidentiality of business  
 921 material.—If the commission undertakes an inquiry, any records,  
 922 documents, papers, maps, books, tapes, photographs, files, sound  
 923 recordings, or other business material, regardless of form or  
 924 characteristics, obtained by the commission incident to the  
 925 inquiry are considered confidential and exempt from s. 119.07(1)

HB 801

2020

926 while the inquiry is pending. If at the conclusion of an inquiry  
927 the commission undertakes a formal proceeding, any matter  
928 determined by the commission or by a judicial or administrative  
929 body, federal or state, to be ~~trade secrets or~~ proprietary  
930 confidential business information coming into its possession  
931 pursuant to such inquiry shall be considered confidential and  
932 exempt from s. 119.07(1). Such material may be used in any  
933 administrative or judicial proceeding so long as the  
934 confidential or proprietary nature of the material is  
935 maintained.

936 Section 22. Paragraph (a) of subsection (3) of section  
937 364.183, Florida Statutes, is amended to read:

938 364.183 Access to company records.—

939 (3) The term "proprietary confidential business  
940 information" means information, regardless of form or  
941 characteristics, which is owned or controlled by the person or  
942 company, is intended to be and is treated by the person or  
943 company as private in that the disclosure of the information  
944 would cause harm to the ratepayers or the person's or company's  
945 business operations, and has not been disclosed unless disclosed  
946 pursuant to a statutory provision, an order of a court or  
947 administrative body, or private agreement that provides that the  
948 information will not be released to the public. The term  
949 includes, ~~but is not limited to:~~

950 ~~(a) Trade secrets.~~

951        (a)~~(b)~~ Internal auditing controls and reports of internal  
952 auditors.

953        (b)~~(c)~~ Security measures, systems, or procedures.

954        (c)~~(d)~~ Information concerning bids or other contractual  
955 data, the disclosure of which would impair the efforts of the  
956 company or its affiliates to contract for goods or services on  
957 favorable terms.

958        (d)~~(e)~~ Information relating to competitive interests, the  
959 disclosure of which would impair the competitive business of the  
960 provider of information.

961        (e)~~(f)~~ Employee personnel information unrelated to  
962 compensation, duties, qualifications, or responsibilities.

963        Section 23. Subsection (3) of section 365.174, Florida  
964 Statutes, is amended to read:

965        365.174 Proprietary confidential business information.—

966        (3) As used in this section, the term "proprietary  
967 confidential business information" means customer lists,  
968 customer numbers, individual or aggregate customer data by  
969 location, usage and capacity data, network facilities used to  
970 serve subscribers, technology descriptions, or technical  
971 information, ~~or trade secrets, including trade secrets as~~  
972 ~~defined in s. 812.081,~~ and the actual or developmental costs of  
973 E911 systems that are developed, produced, or received  
974 internally by a provider or by a provider's employees,  
975 directors, officers, or agents.

976 Section 24. Subsection (3) of section 366.093, Florida  
 977 Statutes, is amended to read:

978 366.093 Public utility records; confidentiality.—

979 (3) Proprietary confidential business information means  
 980 information, regardless of form or characteristics, which is  
 981 owned or controlled by the person or company, is intended to be  
 982 and is treated by the person or company as private in that the  
 983 disclosure of the information would cause harm to the ratepayers  
 984 or the person's or company's business operations, and has not  
 985 been disclosed unless disclosed pursuant to a statutory  
 986 provision, an order of a court or administrative body, or  
 987 private agreement that provides that the information will not be  
 988 released to the public. Proprietary confidential business  
 989 information includes, ~~but is not limited to:~~

990 ~~(a) Trade secrets.~~

991 (a) ~~(b)~~ Internal auditing controls and reports of internal  
 992 auditors.

993 (b) ~~(e)~~ Security measures, systems, or procedures.

994 (c) ~~(d)~~ Information concerning bids or other contractual  
 995 data, the disclosure of which would impair the efforts of the  
 996 public utility or its affiliates to contract for goods or  
 997 services on favorable terms.

998 (d) ~~(e)~~ Information relating to competitive interests, the  
 999 disclosure of which would impair the competitive business of the  
 1000 provider of the information.

1001        (e)~~(f)~~ Employee personnel information unrelated to  
 1002 compensation, duties, qualifications, or responsibilities.  
 1003        Section 25. Subsection (3) of section 367.156, Florida  
 1004 Statutes, is amended to read:  
 1005        367.156 Public utility records; confidentiality.—  
 1006        (3) Proprietary confidential business information means  
 1007 information, regardless of form or characteristics, which is  
 1008 owned or controlled by the person or company, is intended to be  
 1009 and is treated by the person or company as private in that the  
 1010 disclosure of the information would cause harm to the ratepayers  
 1011 or the person's or company's business operations, and has not  
 1012 been disclosed unless disclosed pursuant to a statutory  
 1013 provision, an order of a court or administrative body, or a  
 1014 private agreement that provides that the information will not be  
 1015 released to the public. Proprietary business information  
 1016 includes, ~~but is not limited to:~~  
 1017        ~~(a) Trade secrets.~~  
 1018        (a)~~(b)~~ Internal auditing controls and reports of internal  
 1019 auditors.  
 1020        (b)~~(e)~~ Security measures, systems, or procedures.  
 1021        (c)~~(d)~~ Information concerning bids or other contractual  
 1022 data, the disclosure of which would impair the efforts of the  
 1023 utility or its affiliates to contract for goods or services on  
 1024 favorable terms.  
 1025        (d)~~(e)~~ Information relating to competitive interests, the

1026 disclosure of which would impair the competitive businesses of  
 1027 the provider of the information.

1028 (e)~~(f)~~ Employee personnel information unrelated to  
 1029 compensation, duties, qualifications, or responsibilities.

1030 Section 26. Subsection (3) of section 368.108, Florida  
 1031 Statutes, is amended to read:

1032 368.108 Confidentiality; discovery.—

1033 (3) "Proprietary confidential business information" means  
 1034 information, regardless of form or characteristics, which is  
 1035 owned or controlled by the person or company, is intended to be  
 1036 and is treated by the person or company as private in that the  
 1037 disclosure of the information would cause harm to the ratepayers  
 1038 or the person's or company's business operations, and has not  
 1039 been disclosed unless disclosed pursuant to a statutory  
 1040 provision, an order of a court or administrative body, or a  
 1041 private agreement that provides that the information will not be  
 1042 released to the public. "Proprietary confidential business  
 1043 information" includes, ~~but is not limited to:~~

1044 ~~(a) Trade secrets.~~

1045 (a)~~(b)~~ Internal auditing controls and reports of internal  
 1046 auditors.

1047 (b)~~(e)~~ Security measures, systems, or procedures.

1048 (c)~~(d)~~ Information concerning bids or other contractual  
 1049 data, the disclosure of which would impair the efforts of the  
 1050 natural gas transmission company or its affiliates to contract

1051 for goods or services on favorable terms.

1052 (d)~~(e)~~ Information relating to competitive interests, the  
 1053 disclosure of which would impair the competitive business of the  
 1054 provider of the information.

1055 (e)~~(f)~~ Employee personnel information unrelated to  
 1056 compensation, duties, qualifications, or responsibilities.

1057 Section 27. Section 381.83, Florida Statutes, is repealed.

1058 Section 28. Paragraph (c) of subsection (2) of section  
 1059 395.3035, Florida Statutes, is amended to read:

1060 395.3035 Confidentiality of hospital records and  
 1061 meetings.—

1062 (2) The following records and information of any hospital  
 1063 that is subject to chapter 119 and s. 24(a), Art. I of the State  
 1064 Constitution are confidential and exempt from the provisions of  
 1065 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1066 (c) ~~Trade secrets, as defined in s. 688.002, including~~  
 1067 Reimbursement methodologies and rates.

1068 Section 29. Subsection (2) and paragraph (b) of subsection  
 1069 (3) of section 403.7046, Florida Statutes, are amended to read:

1070 403.7046 Regulation of recovered materials.—

1071 (2) Notwithstanding s. 688.01, information reported  
 1072 pursuant to this section or any rule adopted pursuant to this  
 1073 section which, if disclosed, would reveal a trade secret, as  
 1074 defined in s. 688.01, may be provided by the department ~~s.~~  
 1075 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~



1076 ~~24(a), Art. I of the State Constitution. For reporting or~~  
1077 ~~information purposes, however, the department may provide this~~  
1078 ~~information~~ in such form that the names of the persons reporting  
1079 such information and the specific information reported are not  
1080 revealed. ~~This subsection is subject to the Open Government~~  
1081 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
1082 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
1083 ~~repeal through reenactment by the Legislature.~~

1084 (3) Except as otherwise provided in this section or  
1085 pursuant to a special act in effect on or before January 1,  
1086 1993, a local government may not require a commercial  
1087 establishment that generates source-separated recovered  
1088 materials to sell or otherwise convey its recovered materials to  
1089 the local government or to a facility designated by the local  
1090 government, nor may the local government restrict such a  
1091 generator's right to sell or otherwise convey such recovered  
1092 materials to any properly certified recovered materials dealer  
1093 who has satisfied the requirements of this section. A local  
1094 government may not enact any ordinance that prevents such a  
1095 dealer from entering into a contract with a commercial  
1096 establishment to purchase, collect, transport, process, or  
1097 receive source-separated recovered materials.

1098 (b)~~1~~. Before engaging in business within the jurisdiction  
1099 of the local government, a recovered materials dealer or  
1100 pyrolysis facility must provide the local government with a copy

1101 of the certification provided for in this section. In addition,  
1102 the local government may establish a registration process  
1103 whereby a recovered materials dealer or pyrolysis facility must  
1104 register with the local government before engaging in business  
1105 within the jurisdiction of the local government. Such  
1106 registration process is limited to requiring the dealer or  
1107 pyrolysis facility to register its name, including the owner or  
1108 operator of the dealer or pyrolysis facility, and, if the dealer  
1109 or pyrolysis facility is a business entity, its general or  
1110 limited partners, its corporate officers and directors, its  
1111 permanent place of business, evidence of its certification under  
1112 this section, and a certification that the recovered materials  
1113 or post-use polymers will be processed at a recovered materials  
1114 processing facility or pyrolysis facility satisfying the  
1115 requirements of this section. The local government may not use  
1116 the information provided in the registration application to  
1117 compete unfairly with the recovered materials dealer until 90  
1118 days after receipt of the application. All counties, and  
1119 municipalities whose population exceeds 35,000 according to the  
1120 population estimates determined pursuant to s. 186.901, may  
1121 establish a reporting process that must be limited to the  
1122 regulations, reporting format, and reporting frequency  
1123 established by the department pursuant to this section, which  
1124 must, at a minimum, include requiring the dealer or pyrolysis  
1125 facility to identify the types and approximate amount of

HB 801

2020

1126 recovered materials or post-use polymers collected, recycled, or  
1127 reused during the reporting period; the approximate percentage  
1128 of recovered materials or post-use polymers reused, stored, or  
1129 delivered to a recovered materials processing facility or  
1130 pyrolysis facility or disposed of in a solid waste disposal  
1131 facility; and the locations where any recovered materials or  
1132 post-use polymers were disposed of as solid waste. The local  
1133 government may charge the dealer or pyrolysis facility a  
1134 registration fee commensurate with and no greater than the cost  
1135 incurred by the local government in operating its registration  
1136 program. Registration program costs are limited to those costs  
1137 associated with the activities described in this paragraph  
1138 ~~subparagraph~~. Any reporting or registration process established  
1139 by a local government with regard to recovered materials or  
1140 post-use polymers is governed by this section and department  
1141 rules adopted pursuant thereto.

1142 ~~2. Information reported under this subsection which, if~~  
1143 ~~disclosed, would reveal a trade secret, as defined in s.~~  
1144 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~  
1145 ~~24(a), Art. I of the State Constitution. This subparagraph is~~  
1146 ~~subject to the Open Government Sunset Review Act in accordance~~  
1147 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
1148 ~~unless reviewed and saved from repeal through reenactment by the~~  
1149 ~~Legislature.~~

1150 Section 30. Section 403.73, Florida Statutes, is repealed.

1151 Section 31. Paragraph (c) of subsection (1) of section  
 1152 408.061, Florida Statutes, is amended to read:

1153 408.061 Data collection; uniform systems of financial  
 1154 reporting; information relating to physician charges;  
 1155 confidential information; immunity.—

1156 (1) The agency shall require the submission by health care  
 1157 facilities, health care providers, and health insurers of data  
 1158 necessary to carry out the agency's duties and to facilitate  
 1159 transparency in health care pricing data and quality measures.  
 1160 Specifications for data to be collected under this section shall  
 1161 be developed by the agency and applicable contract vendors, with  
 1162 the assistance of technical advisory panels including  
 1163 representatives of affected entities, consumers, purchasers, and  
 1164 such other interested parties as may be determined by the  
 1165 agency.

1166 (c) Data to be submitted by health insurers may include,  
 1167 but are not limited to: claims, payments to health care  
 1168 facilities and health care providers as specified by rule,  
 1169 premium, administration, and financial information. Data  
 1170 submitted shall be certified by the chief financial officer, an  
 1171 appropriate and duly authorized representative, or an employee  
 1172 of the insurer that the information submitted is true and  
 1173 accurate. ~~Information that is considered a trade secret under s.~~  
 1174 ~~812.081 shall be clearly designated.~~

1175 Section 32. Subsection (1) of section 408.185, Florida

1176 Statutes, is amended to read:

1177 408.185 Information submitted for review of antitrust  
 1178 issues; confidentiality.—The following information held by the  
 1179 Office of the Attorney General, which is submitted by a member  
 1180 of the health care community pursuant to a request for an  
 1181 antitrust no-action letter shall be confidential and exempt from  
 1182 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 1183 Constitution for 1 year after the date of submission.

1184 ~~(1) Documents that reveal trade secrets as defined in s.~~  
 1185 ~~688.002.~~

1186 Section 33. Paragraph (a) of subsection (14) of section  
 1187 408.910, Florida Statutes, is amended to read:

1188 408.910 Florida Health Choices Program.—

1189 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—

1190 (a) Definitions.—For purposes of this subsection, the  
 1191 term:

1192 1. "Buyer's representative" means a participating  
 1193 insurance agent as described in paragraph (4)(g).

1194 2. "Enrollee" means an employer who is eligible to enroll  
 1195 in the program pursuant to paragraph (4)(a).

1196 3. "Participant" means an individual who is eligible to  
 1197 participate in the program pursuant to paragraph (4)(b).

1198 4. "Proprietary confidential business information" means  
 1199 information, regardless of form or characteristics, that is  
 1200 owned or controlled by a vendor requesting confidentiality under

1201 this section; that is intended to be and is treated by the  
 1202 vendor as private in that the disclosure of the information  
 1203 would cause harm to the business operations of the vendor; that  
 1204 has not been disclosed unless disclosed pursuant to a statutory  
 1205 provision, an order of a court or administrative body, or a  
 1206 private agreement providing that the information may be released  
 1207 to the public; and that is information concerning:

- 1208 a. Business plans.
- 1209 b. Internal auditing controls and reports of internal  
 1210 auditors.
- 1211 c. Reports of external auditors for privately held  
 1212 companies.
- 1213 d. Client and customer lists.
- 1214 e. Potentially patentable material.
- 1215 ~~f. A trade secret as defined in s. 688.002.~~

1216 5. "Vendor" means a participating insurer or other  
 1217 provider of services as described in paragraph (4) (d).

1218 Section 34. Section 409.91196, Florida Statutes, is  
 1219 amended to read:

1220 409.91196 Supplemental rebate agreements; public records  
 1221 and public meetings exemption.—

1222 (1) The rebate amount, percent of rebate, manufacturer's  
 1223 pricing, and supplemental rebate, ~~and other trade secrets as~~  
 1224 ~~defined in s. 688.002 that the agency has identified for use in~~  
 1225 ~~negotiations,~~ held by the Agency for Health Care Administration

1226 | under s. 409.912(5)(a)7. are confidential and exempt from s.  
 1227 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

1228 |       (2) That portion of a meeting of the Medicaid  
 1229 | Pharmaceutical and Therapeutics Committee at which the rebate  
 1230 | amount, percent of rebate, manufacturer's pricing, or  
 1231 | supplemental rebate, or confidential and exempt ~~other~~ trade  
 1232 | secrets as provided for in s. 688.01 ~~defined in s. 688.002~~ that  
 1233 | the agency has identified for use in negotiations, are discussed  
 1234 | is exempt from s. 286.011 and s. 24(b), Art. I of the State  
 1235 | Constitution. A record shall be made of each exempt portion of a  
 1236 | meeting. Such record must include the times of commencement and  
 1237 | termination, all discussions and proceedings, the names of all  
 1238 | persons present at any time, and the names of all persons  
 1239 | speaking. No exempt portion of a meeting may be held off the  
 1240 | record.

1241 |       Section 35. Paragraph (b) of subsection (2) of section  
 1242 | 440.108, Florida Statutes, is amended to read:

1243 |       440.108 Investigatory records relating to workers'  
 1244 | compensation employer compliance; confidentiality.—

1245 |       (2) After an investigation is completed or ceases to be  
 1246 | active, information in records relating to the investigation  
 1247 | remains confidential and exempt from the provisions of s.  
 1248 | 119.07(1) and s. 24(a), Art. I of the State Constitution if  
 1249 | disclosure of that information would:

1250 |       ~~(b) Reveal a trade secret, as defined in s. 688.002;~~

1251 Section 36. Paragraph (c) of subsection (1) of section  
 1252 494.00125, Florida Statutes, is amended to read:  
 1253 494.00125 Public records exemptions.—  
 1254 (1) INVESTIGATIONS OR EXAMINATIONS.—  
 1255 (c) Except as necessary for the office to enforce the  
 1256 provisions of this chapter, a consumer complaint and other  
 1257 information relative to an investigation or examination shall  
 1258 remain confidential and exempt from s. 119.07(1) after the  
 1259 investigation or examination is completed or ceases to be active  
 1260 to the extent disclosure would:  
 1261 1. Jeopardize the integrity of another active  
 1262 investigation or examination.  
 1263 2. Reveal the name, address, telephone number, social  
 1264 security number, or any other identifying number or information  
 1265 of any complainant, customer, or account holder.  
 1266 3. Disclose the identity of a confidential source.  
 1267 4. Disclose investigative techniques or procedures.  
 1268 ~~5. Reveal a trade secret as defined in s. 688.002.~~  
 1269 Section 37. Subsection (4) of section 497.172, Florida  
 1270 Statutes, is amended to read:  
 1271 497.172 Public records exemptions; public meetings  
 1272 exemptions.—  
 1273 ~~(4) TRADE SECRETS. Trade secrets, as defined in s.~~  
 1274 ~~688.002, held by the department or board, are confidential and~~  
 1275 ~~exempt from s. 119.07(1) and s. 24(a), Art. I of the State~~



1276 ~~Constitution.~~

1277 Section 38. Paragraph (c) of subsection (3) of section  
1278 499.012, Florida Statutes, is amended to read:

1279 499.012 Permit application requirements.—

1280 (3)

1281 ~~(c) Information submitted by an applicant on an~~  
1282 ~~application required pursuant to this subsection which is a~~  
1283 ~~trade secret, as defined in s. 812.081, shall be maintained by~~  
1284 ~~the department as trade secret information pursuant to s.~~  
1285 ~~499.051(7).~~

1286 Section 39. Paragraph (b) of subsection (7) of section  
1287 499.0121, Florida Statutes, is amended to read:

1288 499.0121 Storage and handling of prescription drugs;  
1289 recordkeeping.—The department shall adopt rules to implement  
1290 this section as necessary to protect the public health, safety,  
1291 and welfare. Such rules shall include, but not be limited to,  
1292 requirements for the storage and handling of prescription drugs  
1293 and for the establishment and maintenance of prescription drug  
1294 distribution records.

1295 (7) PRESCRIPTION DRUG PURCHASE LIST.—

1296 ~~(b) Such portions of the information required pursuant to~~  
1297 ~~this subsection which are a trade secret, as defined in s.~~  
1298 ~~812.081, shall be maintained by the department as trade secret~~  
1299 ~~information is required to be maintained under s. 499.051. This~~  
1300 ~~paragraph is subject to the Open Government Sunset Review Act in~~

HB 801

2020

1301 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 1302 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 1303 ~~by the Legislature.~~

1304 Section 40. Paragraph (g) of subsection (1) of section  
 1305 499.05, Florida Statutes, is amended to read:

1306 499.05 Rules.—

1307 (1) The department shall adopt rules to implement and  
 1308 enforce this chapter with respect to:

1309 (g) Inspections and investigations conducted under s.  
 1310 499.051 or s. 499.93, ~~and the identification of information~~  
 1311 ~~claimed to be a trade secret and exempt from the public records~~  
 1312 ~~law as provided in s. 499.051(7).~~

1313 Section 41. Paragraph (b) of subsection (7) of section  
 1314 499.051, Florida Statutes, is amended to read:

1315 499.051 Inspections and investigations.—

1316 (7)

1317 ~~(b) Information that constitutes a trade secret, as~~  
 1318 ~~defined in s. 812.081, contained in the complaint or obtained by~~  
 1319 ~~the department pursuant to the investigation must remain~~  
 1320 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
 1321 ~~of the State Constitution as long as the information is held by~~  
 1322 ~~the department. This paragraph is subject to the Open Government~~  
 1323 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
 1324 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
 1325 ~~repeal through reenactment by the Legislature.~~

1326 Section 42. Section 499.931, Florida Statutes, is  
 1327 repealed.

1328 Section 43. Paragraph (d) of subsection (11) of section  
 1329 501.171, Florida Statutes, is amended to read:

1330 501.171 Security of confidential personal information.—

1331 (11) PUBLIC RECORDS EXEMPTION.—

1332 (d) For purposes of this subsection, the term "proprietary  
 1333 information" means information that:

1334 1. Is owned or controlled by the covered entity.

1335 2. Is intended to be private and is treated by the covered  
 1336 entity as private because disclosure would harm the covered  
 1337 entity or its business operations.

1338 3. Has not been disclosed except as required by law or a  
 1339 private agreement that provides that the information will not be  
 1340 released to the public.

1341 4. Is not publicly available or otherwise readily  
 1342 ascertainable through proper means from another source in the  
 1343 same configuration as received by the department.

1344 5. Includes:

1345 ~~a. Trade secrets as defined in s. 688.002.~~

1346 ~~b.~~ competitive interests, the disclosure of which would  
 1347 impair the competitive business of the covered entity who is the  
 1348 subject of the information.

1349 Section 44. Section 502.222, Florida Statutes, is  
 1350 repealed.

1351 Section 45. Paragraph (b) of subsection (1) of section  
 1352 517.2015, Florida Statutes, is amended to read:

1353 517.2015 Confidentiality of information relating to  
 1354 investigations and examinations.—

1355 (1)

1356 (b) Except as necessary for the office to enforce the  
 1357 provisions of this chapter, a consumer complaint and other  
 1358 information relative to an investigation or examination shall  
 1359 remain confidential and exempt from s. 119.07(1) after the  
 1360 investigation or examination is completed or ceases to be active  
 1361 to the extent disclosure would:

1362 1. Jeopardize the integrity of another active  
 1363 investigation or examination.

1364 2. Reveal the name, address, telephone number, social  
 1365 security number, or any other identifying number or information  
 1366 of any complainant, customer, or account holder.

1367 3. Disclose the identity of a confidential source.

1368 4. Disclose investigative techniques or procedures.

1369 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1370 Section 46. Paragraph (b) of subsection (1) of section  
 1371 520.9965, Florida Statutes, is amended to read:

1372 520.9965 Confidentiality of information relating to  
 1373 investigations and examinations.—

1374 (1)

1375 (b) Except as necessary for the office to enforce the

1376 provisions of this chapter, a consumer complaint and other  
 1377 information relative to an investigation or examination shall  
 1378 remain confidential and exempt from s. 119.07(1) after the  
 1379 investigation or examination is completed or ceases to be active  
 1380 to the extent disclosure would:

- 1381 1. Jeopardize the integrity of another active
- 1382 investigation or examination.
- 1383 2. Reveal the name, address, telephone number, social
- 1384 security number, or any other identifying number or information
- 1385 of any complainant, customer, or account holder.
- 1386 3. Disclose the identity of a confidential source.
- 1387 4. Disclose investigative techniques or procedures.
- 1388 ~~5. Reveal a trade secret as defined in s. 688.002.~~

1389 Section 47. Subsection (2) of section 526.311, Florida  
 1390 Statutes, is amended to read:

1391 526.311 Enforcement; civil penalties; injunctive relief.-

1392 (2) The Department of Agriculture and Consumer Services  
 1393 shall investigate any complaints regarding violations of this  
 1394 act and may request in writing the production of documents and  
 1395 records as part of its investigation of a complaint. If the  
 1396 person upon whom such request was made fails to produce the  
 1397 documents or records within 30 days after the date of the  
 1398 request, the department, through the department's office of  
 1399 general counsel, may issue and serve a subpoena to compel the  
 1400 production of such documents and records. If any person shall

1401 refuse to comply with a subpoena issued under this section, the  
 1402 department may petition a court of competent jurisdiction to  
 1403 enforce the subpoena and assess such sanctions as the court may  
 1404 direct. Refiners shall afford the department reasonable access  
 1405 to the refiners' posted terminal price. Any records, documents,  
 1406 papers, maps, books, tapes, photographs, files, sound  
 1407 recordings, or other business material, regardless of form or  
 1408 characteristics, obtained by the department are confidential and  
 1409 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
 1410 of the State Constitution while the investigation is pending. At  
 1411 the conclusion of an investigation, any matter determined by the  
 1412 department or by a judicial or administrative body, federal or  
 1413 state, to be ~~a trade secret or~~ proprietary confidential business  
 1414 information held by the department pursuant to such  
 1415 investigation shall be considered confidential and exempt from  
 1416 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 1417 Constitution. Such materials may be used in any administrative  
 1418 or judicial proceeding so long as the confidential or  
 1419 proprietary nature of the material is maintained.

1420 Section 48. Paragraph (e) of subsection (1) of section  
 1421 548.062, Florida Statutes, is amended to read:

1422 548.062 Public records exemption.—

1423 (1) As used in this section, the term "proprietary  
 1424 confidential business information" means information that:

1425 (e) Concerns any of the following:

1426 | 1. The number of ticket sales for a match;  
 1427 | 2. The amount of gross receipts after a match;  
 1428 | ~~3. A trade secret, as defined in s. 688.002;~~  
 1429 | 3.4. Business plans;  
 1430 | ~~4.5.~~ Internal auditing controls and reports of internal  
 1431 | auditors; or  
 1432 | ~~5.6.~~ Reports of external auditors.  
 1433 | Section 49. Paragraph (a) of subsection (1) of section  
 1434 | 556.113, Florida Statutes, is amended to read:  
 1435 | 556.113 Sunshine State One-Call of Florida, Inc.; public  
 1436 | records exemption.—  
 1437 | (1) As used in this section, the term "proprietary  
 1438 | confidential business information" means information provided  
 1439 | by:  
 1440 | (a) A member operator which is a map, plan, facility  
 1441 | location diagram, internal damage investigation report or  
 1442 | analysis, or dispatch methodology, ~~or trade secret as defined in~~  
 1443 | ~~s. 688.002,~~ or which describes the exact location of a utility  
 1444 | underground facility or the protection, repair, or restoration  
 1445 | thereof, and:  
 1446 | 1. Is intended to be and is treated by the member operator  
 1447 | as confidential;  
 1448 | 2. The disclosure of which would likely be used by a  
 1449 | competitor to harm the business interests of the member operator  
 1450 | or could be used for the purpose of inflicting damage on

1451 | underground facilities; and

1452 |         3. Is not otherwise readily ascertainable or publicly  
1453 | available by proper means by other persons from another source  
1454 | in the same configuration as provided to Sunshine State One-Call  
1455 | of Florida, Inc.

1456 |         Section 50. Paragraph (b) of subsection (2) of section  
1457 | 559.5558, Florida Statutes, is amended to read:

1458 |         559.5558 Public records exemption; investigations and  
1459 | examinations.—

1460 |         (2)

1461 |         (b) Information made confidential and exempt pursuant to  
1462 | this section is no longer confidential and exempt once the  
1463 | investigation or examination is completed or ceases to be active  
1464 | unless disclosure of the information would:

1465 |             1. Jeopardize the integrity of another active  
1466 | investigation or examination.

1467 |             2. Reveal the personal identifying information of a  
1468 | consumer, unless the consumer is also the complainant. A  
1469 | complainant's personal identifying information is subject to  
1470 | disclosure after the investigation or examination is completed  
1471 | or ceases to be active. However, a complainant's personal  
1472 | financial and health information remains confidential and  
1473 | exempt.

1474 |             3. Reveal the identity of a confidential source.

1475 |             4. Reveal investigative or examination techniques or



1476 | procedures.

1477 | ~~5. Reveal trade secrets, as defined in s. 688.002.~~

1478 | Section 51. Paragraph (c) of subsection (3) of section  
 1479 | 559.9285, Florida Statutes, is amended to read:

1480 | 559.9285 Certification of business activities.—

1481 | (3) The department shall specify by rule the form of each  
 1482 | certification under this section which shall include the  
 1483 | following information:

1484 | (c) The legal name, any trade names or fictitious names,  
 1485 | mailing address, physical address, telephone number or numbers,  
 1486 | facsimile number or numbers, and all Internet and electronic  
 1487 | contact information of every other commercial entity with which  
 1488 | the certifying party engages in business or commerce that is  
 1489 | related in any way to the certifying party's business or  
 1490 | commerce with any terrorist state. The information disclosed  
 1491 | pursuant to this paragraph does not constitute customer lists  
 1492 | or, customer names, ~~or trade secrets~~ protected under s.  
 1493 | 570.544(8) or trade secrets protected under s. 688.01.

1494 | Section 52. Subsection (2) of section 560.129, Florida  
 1495 | Statutes, is amended to read:

1496 | 560.129 Confidentiality.—

1497 | (2) All information obtained by the office in the course  
 1498 | of its investigation or examination ~~which is a trade secret, as~~  
 1499 | ~~defined in s. 688.002, or~~ which is personal financial  
 1500 | information shall remain confidential and exempt from s.

1501 119.07(1) and s. 24(a), Art. I of the State Constitution. If any  
 1502 administrative, civil, or criminal proceeding against a money  
 1503 services business, its authorized vendor, or an affiliated party  
 1504 is initiated and the office seeks to use matter that a licensee  
 1505 believes to be ~~a trade secret or~~ personal financial information,  
 1506 such records shall be subject to an in camera review by the  
 1507 administrative law judge, if the matter is before the Division  
 1508 of Administrative Hearings, or a judge of any court of this  
 1509 state, any other state, or the United States, as appropriate,  
 1510 for the purpose of determining if the matter is ~~a trade secret~~  
 1511 ~~or is~~ personal financial information. ~~If it is determined that~~  
 1512 ~~the matter is a trade secret, the matter shall remain~~  
 1513 ~~confidential.~~ If it is determined that the matter is personal  
 1514 financial information, the matter shall remain confidential  
 1515 unless the administrative law judge or judge determines that, in  
 1516 the interests of justice, the matter should become public.

1517 Section 53. Subsection (3) of section 570.48, Florida  
 1518 Statutes, is amended to read:

1519 570.48 Division of Fruit and Vegetables; powers and  
 1520 duties; records.—The duties of the Division of Fruit and  
 1521 Vegetables include, but are not limited to:

1522 (3) Maintaining the records of the division. The records  
 1523 of the division are public records .; ~~however, trade secrets as~~  
 1524 ~~defined in s. 812.081 are confidential and exempt from s.~~  
 1525 ~~119.07(1) and s. 24(a), Art. I of the State Constitution. This~~

1526 ~~subsection is subject to the Open Government Sunset Review Act~~  
 1527 ~~in accordance with s. 119.15 and shall stand repealed on October~~  
 1528 ~~2, 2021, unless reviewed and saved from repeal through~~  
 1529 ~~reenactment by the Legislature. This Section 688.01 may not be~~  
 1530 ~~construed to prohibit:~~

1531 ~~(a) A disclosure necessary to enforcement procedures.~~

1532 ~~(b) The department from releasing information to other~~  
 1533 ~~governmental agencies. Other governmental agencies that receive~~  
 1534 ~~confidential information from the department under this~~  
 1535 ~~subsection shall maintain the confidentiality of that~~  
 1536 ~~information.~~

1537 ~~(c) the department or other agencies from compiling and~~  
 1538 ~~publishing appropriate data regarding procedures, yield,~~  
 1539 ~~recovery, quality, and related matters, provided such released~~  
 1540 ~~data do not reveal by whom the activity to which the data relate~~  
 1541 ~~was conducted.~~

1542 Section 54. Subsection (8) of section 570.544, Florida  
 1543 Statutes, is amended to read:

1544 570.544 Division of Consumer Services; director; powers;  
 1545 processing of complaints; records.—

1546 (8) The records of the Division of Consumer Services are  
 1547 public records. However, customer lists and, customer names, ~~and~~  
 1548 ~~trade secrets~~ are confidential and exempt from the provisions of  
 1549 s. 119.07(1). Disclosure necessary to enforcement procedures  
 1550 does not violate this prohibition.

1551 Section 55. Subsection (2) of section 573.123, Florida  
 1552 Statutes, is amended to read:

1553 573.123 Maintenance and production of records.—

1554 ~~(2) Information that, if disclosed, would reveal a trade~~  
 1555 ~~secret, as defined in s. 812.081, of any person subject to a~~  
 1556 ~~marketing order is confidential and exempt from s. 119.07(1) and~~  
 1557 ~~s. 24(a), Art. I of the State Constitution and may not be~~  
 1558 ~~disclosed except to an attorney who provides legal advice to the~~  
 1559 ~~division about enforcing a marketing order or by court order. A~~  
 1560 ~~person who receives confidential information under this~~  
 1561 ~~subsection shall maintain the confidentiality of that~~  
 1562 ~~information. This subsection is subject to the Open Government~~  
 1563 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
 1564 ~~repealed on October 2, 2021, unless reviewed and saved from~~  
 1565 ~~repeal through reenactment by the Legislature.~~

1566 Section 56. Section 581.199, Florida Statutes, is  
 1567 repealed.

1568 Section 57. Paragraph (b) of subsection (8) of section  
 1569 601.10, Florida Statutes, is amended to read:

1570 601.10 Powers of the Department of Citrus.—The department  
 1571 shall have and shall exercise such general and specific powers  
 1572 as are delegated to it by this chapter and other statutes of the  
 1573 state, which powers shall include, but are not limited to, the  
 1574 following:

1575 (8)

1576 ~~(b) Any information provided to the department which~~  
1577 ~~constitutes a trade secret as defined in s. 812.081 is~~  
1578 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
1579 ~~of the State Constitution. This paragraph is subject to the Open~~  
1580 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
1581 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
1582 ~~saved from repeal through reenactment by the Legislature.~~

1583 Section 58. Paragraph (d) of subsection (7) of section  
1584 601.15, Florida Statutes, is amended to read:

1585 601.15 Advertising campaign; methods of conducting;  
1586 assessments; emergency reserve fund; citrus research.—

1587 (7) All assessments levied and collected under this  
1588 chapter shall be paid into the State Treasury on or before the  
1589 15th day of each month. Such moneys shall be accounted for in a  
1590 special fund to be designated as the Florida Citrus Advertising  
1591 Trust Fund, and all moneys in such fund are appropriated to the  
1592 department for the following purposes:

1593 (d)1. The pro rata portion of moneys allocated to each  
1594 type of citrus product in noncommodity programs shall be used by  
1595 the department to encourage substantial increases in the  
1596 effectiveness, frequency, and volume of noncommodity  
1597 advertising, merchandising, publicity, and sales promotion of  
1598 such citrus products through rebates and incentive payments to  
1599 handlers and trade customers for these activities. The  
1600 department shall adopt rules providing for the use of such

1601 moneys. The rules shall establish alternate incentive programs,  
1602 including at least one incentive program for product sold under  
1603 advertised brands, one incentive program for product sold under  
1604 private label brands, and one incentive program for product sold  
1605 in bulk. For each incentive program, the rules must establish  
1606 eligibility and performance requirements and must provide  
1607 appropriate limitations on amounts payable to a handler or trade  
1608 customer for a particular season. Such limitations may relate to  
1609 the amount of citrus assessments levied and collected on the  
1610 citrus product handled by such handler or trade customer during  
1611 a 12-month representative period.

1612 2. The department may require from participants in  
1613 noncommodity advertising and promotional programs commercial  
1614 information necessary to determine eligibility for and  
1615 performance in such programs. ~~Any information required which~~  
1616 ~~constitutes a trade secret as defined in s. 812.081 is~~  
1617 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~  
1618 ~~of the State Constitution. This subparagraph is subject to the~~  
1619 ~~Open Government Sunset Review Act in accordance with s. 119.15~~  
1620 ~~and shall stand repealed on October 2, 2021, unless reviewed and~~  
1621 ~~saved from repeal through reenactment by the Legislature.~~

1622 Section 59. Paragraph (c) of subsection (8) of section  
1623 601.152, Florida Statutes, is amended to read:

1624 601.152 Special marketing orders.—

1625 (8)

HB 801

2020

1626           (c)~~1~~. Every handler shall, at such times as the department  
1627 may require, file with the department a return, not under oath,  
1628 on forms to be prescribed and furnished by the department,  
1629 certified as true and correct, stating the quantity of the type,  
1630 variety, and form of citrus fruit or citrus product specified in  
1631 the marketing order first handled in the primary channels of  
1632 trade in the state by such handler during the period of time  
1633 specified in the marketing order. Such returns must contain any  
1634 further information deemed by the department to be reasonably  
1635 necessary to properly administer or enforce this section or any  
1636 marketing order implemented under this section.

1637           ~~2. Information that, if disclosed, would reveal a trade~~  
1638 ~~secret, as defined in s. 812.081, of any person subject to a~~  
1639 ~~marketing order is confidential and exempt from s. 119.07(1) and~~  
1640 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~  
1641 ~~subject to the Open Government Sunset Review Act in accordance~~  
1642 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~  
1643 ~~unless reviewed and saved from repeal through reenactment by the~~  
1644 ~~Legislature.~~

1645           Section 60. Section 601.76, Florida Statutes, is amended  
1646 to read:

1647           601.76 Manufacturer to furnish formula and other  
1648 information.—Any formula required to be filed with the  
1649 Department of Agriculture ~~shall be deemed a trade secret as~~  
1650 ~~defined in s. 812.081, is confidential and exempt from s.~~

1651 119.07(1) and s. 24(a), Art. I of the State Constitution, and  
 1652 may be divulged only to the Department of Agriculture or to its  
 1653 duly authorized representatives or upon court order when  
 1654 necessary in the enforcement of this law. A person who receives  
 1655 such a formula from the Department of Agriculture under this  
 1656 section shall maintain the confidentiality of the formula. ~~This~~  
 1657 ~~section is subject to the Open Government Sunset Review Act in~~  
 1658 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~  
 1659 ~~2021, unless reviewed and saved from repeal through reenactment~~  
 1660 ~~by the Legislature.~~

1661 Section 61. Subsection (6) of section 607.0505, Florida  
 1662 Statutes, is amended to read:

1663 607.0505 Registered agent; duties.—

1664 (6) Information provided to, and records and  
 1665 transcriptions of testimony obtained by, the Department of Legal  
 1666 Affairs pursuant to this section are confidential and exempt  
 1667 from the provisions of s. 119.07(1) while the investigation is  
 1668 active. For purposes of this section, an investigation shall be  
 1669 considered "active" while such investigation is being conducted  
 1670 with a reasonable, good faith belief that it may lead to the  
 1671 filing of an administrative, civil, or criminal proceeding. An  
 1672 investigation does not cease to be active so long as the  
 1673 Department of Legal Affairs is proceeding with reasonable  
 1674 dispatch and there is a good faith belief that action may be  
 1675 initiated by the Department of Legal Affairs or other



1676 administrative or law enforcement agency. Except for active  
1677 criminal intelligence or criminal investigative information, as  
1678 defined in s. 119.011, and information which, if disclosed,  
1679 ~~would reveal a trade secret, as defined in s. 688.002, or~~ would  
1680 jeopardize the safety of an individual, all information,  
1681 records, and transcriptions become public record when the  
1682 investigation is completed or ceases to be active. The  
1683 Department of Legal Affairs shall not disclose confidential  
1684 information, records, or transcriptions of testimony except  
1685 pursuant to the authorization by the Attorney General in any of  
1686 the following circumstances:

1687 (a) To a law enforcement agency participating in or  
1688 conducting a civil investigation under chapter 895, or  
1689 participating in or conducting a criminal investigation.

1690 (b) In the course of filing, participating in, or  
1691 conducting a judicial proceeding instituted pursuant to this  
1692 section or chapter 895.

1693 (c) In the course of filing, participating in, or  
1694 conducting a judicial proceeding to enforce an order or judgment  
1695 entered pursuant to this section or chapter 895.

1696 (d) In the course of a criminal or civil proceeding.

1697

1698 A person or law enforcement agency which receives any  
1699 information, record, or transcription of testimony that has been  
1700 made confidential by this subsection shall maintain the

1701 confidentiality of such material and shall not disclose such  
1702 information, record, or transcription of testimony except as  
1703 provided for herein. Any person who willfully discloses any  
1704 information, record, or transcription of testimony that has been  
1705 made confidential by this subsection, except as provided for  
1706 herein, is guilty of a misdemeanor of the first degree,  
1707 punishable as provided in s. 775.082 or s. 775.083. If any  
1708 information, record, or testimony obtained pursuant to  
1709 subsection (2) is offered in evidence in any judicial  
1710 proceeding, the court may, in its discretion, seal that portion  
1711 of the record to further the policies of confidentiality set  
1712 forth herein.

1713 Section 62. Subsection (6) of section 617.0503, Florida  
1714 Statutes, is amended to read:

1715 617.0503 Registered agent; duties; confidentiality of  
1716 investigation records.—

1717 (6) Information provided to, and records and  
1718 transcriptions of testimony obtained by, the Department of Legal  
1719 Affairs pursuant to this section are confidential and exempt  
1720 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
1721 State Constitution while the investigation is active. For  
1722 purposes of this section, an investigation shall be considered  
1723 "active" while such investigation is being conducted with a  
1724 reasonable, good faith belief that it may lead to the filing of  
1725 an administrative, civil, or criminal proceeding. An

1726 investigation does not cease to be active so long as the  
1727 department is proceeding with reasonable dispatch and there is a  
1728 good faith belief that action may be initiated by the department  
1729 or other administrative or law enforcement agency. Except for  
1730 active criminal intelligence or criminal investigative  
1731 information, as defined in s. 119.011, and information which, if  
1732 disclosed, ~~would reveal a trade secret, as defined in s.~~  
1733 ~~688.002, or~~ would jeopardize the safety of an individual, all  
1734 information, records, and transcriptions become available to the  
1735 public when the investigation is completed or ceases to be  
1736 active. The department shall not disclose confidential  
1737 information, records, or transcriptions of testimony except  
1738 pursuant to authorization by the Attorney General in any of the  
1739 following circumstances:

1740 (a) To a law enforcement agency participating in or  
1741 conducting a civil investigation under chapter 895, or  
1742 participating in or conducting a criminal investigation.

1743 (b) In the course of filing, participating in, or  
1744 conducting a judicial proceeding instituted pursuant to this  
1745 section or chapter 895.

1746 (c) In the course of filing, participating in, or  
1747 conducting a judicial proceeding to enforce an order or judgment  
1748 entered pursuant to this section or chapter 895.

1749 (d) In the course of a criminal proceeding.  
1750

1751 A person or law enforcement agency that receives any  
 1752 information, record, or transcription of testimony that has been  
 1753 made confidential by this subsection shall maintain the  
 1754 confidentiality of such material and shall not disclose such  
 1755 information, record, or transcription of testimony except as  
 1756 provided for herein. Any person who willfully discloses any  
 1757 information, record, or transcription of testimony that has been  
 1758 made confidential by this subsection, except as provided for in  
 1759 this subsection, commits a misdemeanor of the first degree,  
 1760 punishable as provided in s. 775.082 or s. 775.083. If any  
 1761 information, record, or testimony obtained pursuant to  
 1762 subsection (2) is offered in evidence in any judicial  
 1763 proceeding, the court may, in its discretion, seal that portion  
 1764 of the record to further the policies of confidentiality set  
 1765 forth in this subsection.

1766 Section 63. Subsection (4) of section 624.307, Florida  
 1767 Statutes, is amended to read:

1768 624.307 General powers; duties.—

1769 (4) The department and office may each collect, propose,  
 1770 publish, and disseminate information relating to the subject  
 1771 matter of any duties imposed upon it by law. Notwithstanding any  
 1772 other provision of law, information reported to and collected by  
 1773 the office may be made available on an aggregate basis. The  
 1774 office may report, publish, or otherwise make available such  
 1775 information from all insurers on an aggregate basis by line of

1776 business and by county, even if marked trade secret pursuant to  
 1777 s. 688.01, but shall otherwise maintain trade secret  
 1778 confidentiality in accordance with s. 688.01.

1779 Section 64. Subsection (4) is added to section 624.315,  
 1780 Florida Statutes, to read:

1781 624.315 Department; annual report.—

1782 (4) Notwithstanding any other provision of law, the office  
 1783 may make the information in subsection (2) available on an  
 1784 aggregate basis. The office may include such statistical  
 1785 information from all insurers on an aggregate basis by line of  
 1786 business and by county, even if marked trade secret pursuant to  
 1787 s. 688.01, but shall otherwise maintain trade secret  
 1788 confidentiality in accordance with s. 688.01.

1789 Section 65. Paragraph (c) of subsection (1) and subsection  
 1790 (5) of section 624.4212, Florida Statutes, are amended to read:

1791 624.4212 Confidentiality of proprietary business and other  
 1792 information.—

1793 (1) As used in this section, the term "proprietary  
 1794 business information" means information, regardless of form or  
 1795 characteristics, which is owned or controlled by an insurer, or  
 1796 a person or an affiliated person who seeks acquisition of  
 1797 controlling stock in a domestic stock insurer or controlling  
 1798 company, and which:

1799 (c) Includes:

1800 ~~1. Trade secrets as defined in s. 688.002 which comply~~

1801 ~~with s. 624.4213.~~

1802 1.2. Information relating to competitive interests, the  
1803 disclosure of which would impair the competitive business of the  
1804 provider of the information.

1805 2.3. The source, nature, and amount of the consideration  
1806 used or to be used in carrying out a merger or other acquisition  
1807 of control in the ordinary course of business, including the  
1808 identity of the lender, if the person filing a statement  
1809 regarding consideration so requests.

1810 3.4. Information relating to bids or other contractual  
1811 data, the disclosure of which would impair the efforts of the  
1812 insurer or its affiliates to contract for goods or services on  
1813 favorable terms.

1814 4.5. Internal auditing controls and reports of internal  
1815 auditors.

1816 (5) The office may disclose information made confidential  
1817 and exempt under this section or s. 688.01:

1818 (a) If the insurer to which it pertains gives prior  
1819 written consent;

1820 (b) Pursuant to a court order;

1821 (c) To the Actuarial Board for Counseling and Discipline  
1822 upon a request stating that the information is for the purpose  
1823 of professional disciplinary proceedings and specifying  
1824 procedures satisfactory to the office for preserving the  
1825 confidentiality of the information;

1826 (d) To other states, federal and international agencies,  
 1827 the National Association of Insurance Commissioners and its  
 1828 affiliates and subsidiaries, and state, federal, and  
 1829 international law enforcement authorities, including members of  
 1830 a supervisory college described in s. 628.805 if the recipient  
 1831 agrees in writing to maintain the confidential and exempt status  
 1832 of the document, material, or other information and has  
 1833 certified in writing its legal authority to maintain such  
 1834 confidentiality; or

1835 (e) For the purpose of aggregating information on an  
 1836 industrywide basis and disclosing the information to the public  
 1837 only if the specific identities of the insurers, or persons or  
 1838 affiliated persons, are not revealed.

1839 Section 66. Section 624.4213, Florida Statutes, is  
 1840 repealed.

1841 Section 67. Paragraph (d) of subsection (1) of section  
 1842 626.84195, Florida Statutes, is amended to read:

1843 626.84195 Confidentiality of information supplied by title  
 1844 insurance agencies and insurers.—

1845 (1) As used in this section, the term "proprietary  
 1846 business information" means information that:

1847 (d) Concerns:

- 1848 1. Business plans;
- 1849 2. Internal auditing controls and reports of internal  
 1850 auditors;

1851           3. Reports of external auditors for privately held  
 1852 companies; or  
 1853           ~~4. Trade secrets, as defined in s. 688.002; or~~  
 1854           4.5. Financial information, including revenue data, loss  
 1855 expense data, gross receipts, taxes paid, capital investment,  
 1856 and employee wages.

1857           Section 68. Subsection (2) of section 626.884, Florida  
 1858 Statutes, is amended to read:

1859           626.884 Maintenance of records by administrator; access;  
 1860 confidentiality.—

1861           (2) The office shall have access to books and records  
 1862 maintained by the administrator for the purpose of examination,  
 1863 audit, and inspection. ~~Information contained in such books and~~  
 1864 ~~records is confidential and exempt from the provisions of s.~~  
 1865 ~~119.07(1) if the disclosure of such information would reveal a~~  
 1866 ~~trade secret as defined in s. 688.002. However,~~ The office may  
 1867 use such information in any proceeding instituted against the  
 1868 administrator.

1869           Section 69. Paragraph (a) of subsection (1) of section  
 1870 626.9936, Florida Statutes, is amended to read:

1871           626.9936 Access to records.—

1872           (1) Notwithstanding subsections (1) and (2) of Article  
 1873 VIII, subsection (2) of Article X, and subsection (6) of Article  
 1874 XII of the Interstate Insurance Product Regulation Compact, a  
 1875 request by a resident of this state for public inspection and



HB 801

2020

1876 copying of information, data, or official records that includes:

1877 (a) An insurer's trade secrets shall be referred to the  
1878 commissioner who shall respond to the request, with the  
1879 cooperation and assistance of the commission, in accordance with  
1880 s. 688.01 ~~s. 624.4213~~; or

1881 Section 70. Paragraph (g) of subsection (3) of section  
1882 627.0628, Florida Statutes, is amended to read:

1883 627.0628 Florida Commission on Hurricane Loss Projection  
1884 Methodology; public records exemption; public meetings  
1885 exemption.—

1886 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

1887 ~~(g)1. A trade secret, as defined in s. 688.002, which is  
1888 used in designing and constructing a hurricane or flood loss  
1889 model and which is provided pursuant to this section, by a  
1890 private company, to the commission, office, or consumer advocate  
1891 appointed pursuant to s. 627.0613 is confidential and exempt  
1892 from s. 119.07(1) and s. 24(a), Art. I of the State  
1893 Constitution.~~

1894 (g)1.2.a. That portion of a meeting of the commission or  
1895 of a rate proceeding on an insurer's rate filing at which a  
1896 trade secret made confidential and exempt pursuant to s. 688.01  
1897 ~~by this paragraph~~ is discussed is exempt from s. 286.011 and s.  
1898 24(b), Art. I of the State Constitution. The closed meeting must  
1899 be recorded, and no portion of the closed meeting may be off the  
1900 record.

1901        ~~2.b.~~ The recording of a closed portion of a meeting is  
 1902 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 1903 Constitution.

1904        Section 71. Paragraph (a) of subsection (11) of section  
 1905 627.3518, Florida Statutes, is amended to read:

1906        627.3518 Citizens Property Insurance Corporation  
 1907 policyholder eligibility clearinghouse program.—The purpose of  
 1908 this section is to provide a framework for the corporation to  
 1909 implement a clearinghouse program by January 1, 2014.

1910        (11) Proprietary business information provided to the  
 1911 corporation's clearinghouse by insurers with respect to  
 1912 identifying and selecting risks for an offer of coverage is  
 1913 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 1914 of the State Constitution.

1915        (a) As used in this subsection, the term "proprietary  
 1916 business information" means information, regardless of form or  
 1917 characteristics, which is owned or controlled by an insurer and:

1918        1. Is identified by the insurer as proprietary business  
 1919 information and is intended to be and is treated by the insurer  
 1920 as private in that the disclosure of the information would cause  
 1921 harm to the insurer, an individual, or the company's business  
 1922 operations and has not been disclosed unless disclosed pursuant  
 1923 to a statutory requirement, an order of a court or  
 1924 administrative body, or a private agreement that provides that  
 1925 the information will not be released to the public;

1926           2. Is not otherwise readily ascertainable or publicly  
 1927 available by proper means by other persons from another source  
 1928 in the same configuration as provided to the clearinghouse; and

1929           3. Includes-

1930           ~~a. Trade secrets, as defined in s. 688.002.~~

1931           ~~b.~~ information relating to competitive interests, the  
 1932 disclosure of which would impair the competitive business of the  
 1933 provider of the information.

1934  
 1935 Proprietary business information may be found in underwriting  
 1936 criteria or instructions which are used to identify and select  
 1937 risks through the program for an offer of coverage and are  
 1938 shared with the clearinghouse to facilitate the shopping of  
 1939 risks with the insurer.

1940           Section 72. Subsections (4) and (5) of section 655.057,  
 1941 Florida Statutes, are amended to read:

1942           655.057 Records; limited restrictions upon public access.-

1943           ~~(4) Except as otherwise provided in this section and~~  
 1944 ~~except for those portions that are otherwise public record,~~  
 1945 ~~trade secrets as defined in s. 688.002 which comply with s.~~  
 1946 ~~655.0591 and which are held by the office in accordance with its~~  
 1947 ~~statutory duties with respect to the financial institutions~~  
 1948 ~~codes are confidential and exempt from s. 119.07(1) and s.~~  
 1949 ~~24(a), Art. I of the State Constitution.~~

1950           ~~(4)-(5)~~   Neither this section nor s. 688.01 prevents ~~does~~

1951 | ~~not prevent~~ or restricts ~~restrict~~:

1952 |       (a)     Publishing reports that are required to be submitted  
1953 | to the office pursuant to s. 655.045(2) or required by  
1954 | applicable federal statutes or regulations to be published.

1955 |       (b)     Furnishing records or information to any other state,  
1956 | federal, or foreign agency responsible for the regulation or  
1957 | supervision of financial institutions.

1958 |       (c)     Disclosing or publishing summaries of the condition  
1959 | of financial institutions and general economic and similar  
1960 | statistics and data, provided that the identity of a particular  
1961 | financial institution is not disclosed.

1962 |       (d)     Reporting any suspected criminal activity, with  
1963 | supporting documents and information, to appropriate law  
1964 | enforcement and prosecutorial agencies.

1965 |       (e)     Furnishing information upon request to the Chief  
1966 | Financial Officer or the Division of Treasury of the Department  
1967 | of Financial Services regarding the financial condition of any  
1968 | financial institution that is, or has applied to be, designated  
1969 | as a qualified public depository pursuant to chapter 280.

1970 |       (f)     Furnishing information to Federal Home Loan Banks  
1971 | regarding its member institutions pursuant to an information  
1972 | sharing agreement between the Federal Home Loan Banks and the  
1973 | office.

1974 |  
1975 | Any confidential information or records obtained from the office

1976 | pursuant to this subsection shall be maintained as confidential  
 1977 | and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 1978 | Constitution.

1979 |       Section 73. Section 655.0591, Florida Statutes, is  
 1980 | repealed.

1981 |       Section 74. Subsection (11) of section 663.533, Florida  
 1982 | Statutes, is amended to read:

1983 |       663.533 Applicability of the financial institutions  
 1984 | codes.—A qualified limited service affiliate is subject to the  
 1985 | financial institutions codes. Without limiting the foregoing,  
 1986 | the following provisions are applicable to a qualified limited  
 1987 | service affiliate:

1988 |       (11) Section 688.01 ~~655.0591~~, relating to trade secret  
 1989 | documents.

1991 | This section does not prohibit the office from investigating or  
 1992 | examining an entity to ensure that it is not in violation of  
 1993 | this chapter or applicable provisions of the financial  
 1994 | institutions codes.

1995 |       Section 75. Section 721.071, Florida Statutes, is  
 1996 | repealed.

1997 |       Section 76. Subsections (3) and (4) of section 815.04,  
 1998 | Florida Statutes, are amended to read:

1999 |       815.04 Offenses against intellectual property; ~~public~~  
 2000 | ~~records exemption.~~—

2001           ~~(3) Data, programs, or supporting documentation that is a~~  
 2002 ~~trade secret as defined in s. 812.081, that is held by an agency~~  
 2003 ~~as defined in chapter 119, and that resides or exists internal~~  
 2004 ~~or external to a computer, computer system, computer network, or~~  
 2005 ~~electronic device is confidential and exempt from the provisions~~  
 2006 ~~of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~  
 2007 ~~This subsection is subject to the Open Government Sunset Review~~  
 2008 ~~Act in accordance with s. 119.15 and shall stand repealed on~~  
 2009 ~~October 2, 2021, unless reviewed and saved from repeal through~~  
 2010 ~~reenactment by the Legislature.~~

2011           (3)~~(4)~~ A person who willfully, knowingly, and without  
 2012 authorization discloses or takes data, programs, or supporting  
 2013 documentation that is a trade secret as defined in s. 812.081 ~~or~~  
 2014 ~~is confidential as provided by law~~ residing or existing internal  
 2015 or external to a computer, computer system, computer network, or  
 2016 electronic device commits an offense against intellectual  
 2017 property.

2018           Section 77. Section 815.045, Florida Statutes, is  
 2019 repealed.

2020           Section 78. Subsection (2) of section 1004.22, Florida  
 2021 Statutes, is amended to read:

2022           1004.22 Divisions of sponsored research at state  
 2023 universities.—

2024           (2) The university shall set such policies to regulate the  
 2025 activities of the divisions of sponsored research as it may

2026 consider necessary to administer the research programs in a  
 2027 manner which assures efficiency and effectiveness, producing the  
 2028 maximum benefit for the educational programs and maximum service  
 2029 to the state. To this end, materials that relate to methods of  
 2030 manufacture or production, ~~potential trade secrets,~~ potentially  
 2031 patentable material, ~~actual~~ trade secrets, as defined in s.  
 2032 688.01, business transactions, or proprietary information  
 2033 received, generated, ascertained, or discovered during the  
 2034 course of research conducted within the state universities shall  
 2035 be confidential and exempt from the provisions of s. 119.07(1),  
 2036 except that a division of sponsored research shall make  
 2037 available upon request the title and description of a research  
 2038 project, the name of the researcher, and the amount and source  
 2039 of funding provided for such project.

2040 Section 79. Paragraph (c) of subsection (2) and  
 2041 subsections (3), (4), and (7) of section 1004.30, Florida  
 2042 Statutes, are amended to read:

2043 1004.30 University health services support organization;  
 2044 confidentiality of information.—

2045 (2) The following university health services support  
 2046 organization's records and information are confidential and  
 2047 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
 2048 of the State Constitution:

2049 ~~(c) Trade secrets, as defined in s. 688.002, including~~  
 2050 ~~reimbursement methodologies and rates.~~

2051 (3) Any portion of a governing board or peer review panel  
 2052 or committee meeting during which a confidential and exempt  
 2053 contract, document, record, or marketing plan, ~~or trade secret,~~  
 2054 as provided for in subsection (2), or a confidential and exempt  
 2055 trade secret, as provided for in s. 688.01, is discussed is  
 2056 exempt from the provisions of s. 286.011 and s. 24(b), Art. I of  
 2057 the State Constitution.

2058 (4) Those portions of any public record, such as a tape  
 2059 recording, minutes, and notes, generated during that portion of  
 2060 a governing board or peer review panel or committee meeting  
 2061 which is closed to the public pursuant to this section, ~~which~~  
 2062 ~~contain information relating to contracts, documents, records,~~  
 2063 ~~marketing plans, or trade secrets which are made confidential~~  
 2064 ~~and exempt by this section,~~ are confidential and exempt from the  
 2065 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 2066 Constitution.

2067 (7) Those portions of any public record, such as a tape  
 2068 recording, minutes, or notes, generated during that portion of a  
 2069 governing board meeting at which negotiations for contracts for  
 2070 managed-care arrangements occur, are reported on, or are acted  
 2071 on by the governing board, which record is made confidential and  
 2072 exempt by subsection (4), shall become public records 2 years  
 2073 after the termination or completion of the term of the contract  
 2074 to which such negotiations relate or, if no contract was  
 2075 executed, 2 years after the termination of the negotiations.



2076 Notwithstanding paragraph (2) (a) and subsection (4), a  
 2077 university health services support organization must make  
 2078 available, upon request, the title and general description of a  
 2079 contract for managed-care arrangements, the names of the  
 2080 contracting parties, and the duration of the contract term. All  
 2081 contracts for managed-care arrangements which are made  
 2082 confidential and exempt by paragraph (2) (a), except those  
 2083 portions of any contract containing trade secrets which are made  
 2084 confidential and exempt by s. 688.01 ~~paragraph (2) (c)~~, shall  
 2085 become public 2 years after the termination or completion of the  
 2086 term of the contract.

2087 Section 80. Paragraph (b) of subsection (8) of section  
 2088 1004.43, Florida Statutes, is amended to read:

2089 1004.43 H. Lee Moffitt Cancer Center and Research  
 2090 Institute.—There is established the H. Lee Moffitt Cancer Center  
 2091 and Research Institute, a statewide resource for basic and  
 2092 clinical research and multidisciplinary approaches to patient  
 2093 care.

2094 (8)

2095 (b) Proprietary confidential business information is  
 2096 confidential and exempt from the provisions of s. 119.07(1) and  
 2097 s. 24(a), Art. I of the State Constitution. However, the Auditor  
 2098 General, the Office of Program Policy Analysis and Government  
 2099 Accountability, and the Board of Governors, pursuant to their  
 2100 oversight and auditing functions, must be given access to all

2101 proprietary confidential business information upon request and  
2102 without subpoena and must maintain the confidentiality of  
2103 information so received. As used in this paragraph, the term  
2104 "proprietary confidential business information" means  
2105 information, regardless of its form or characteristics, which is  
2106 owned or controlled by the not-for-profit corporation or its  
2107 subsidiaries; is intended to be and is treated by the not-for-  
2108 profit corporation or its subsidiaries as private and the  
2109 disclosure of which would harm the business operations of the  
2110 not-for-profit corporation or its subsidiaries; has not been  
2111 intentionally disclosed by the corporation or its subsidiaries  
2112 unless pursuant to law, an order of a court or administrative  
2113 body, a legislative proceeding pursuant to s. 5, Art. III of the  
2114 State Constitution, or a private agreement that provides that  
2115 the information may be released to the public; and which is  
2116 information concerning:

- 2117 1. Internal auditing controls and reports of internal  
2118 auditors;
- 2119 2. Matters reasonably encompassed in privileged attorney-  
2120 client communications;
- 2121 3. Contracts for managed-care arrangements, including  
2122 preferred provider organization contracts, health maintenance  
2123 organization contracts, and exclusive provider organization  
2124 contracts, and any documents directly relating to the  
2125 negotiation, performance, and implementation of any such

HB 801

2020

2126 | contracts for managed-care arrangements;

2127 |       4. Bids or other contractual data, banking records, and

2128 | credit agreements the disclosure of which would impair the

2129 | efforts of the not-for-profit corporation or its subsidiaries to

2130 | contract for goods or services on favorable terms;

2131 |       5. Information relating to private contractual data, the

2132 | disclosure of which would impair the competitive interest of the

2133 | provider of the information;

2134 |       6. Corporate officer and employee personnel information;

2135 |       7. Information relating to the proceedings and records of

2136 | credentialing panels and committees and of the governing board

2137 | of the not-for-profit corporation or its subsidiaries relating

2138 | to credentialing;

2139 |       8. Minutes of meetings of the governing board of the not-

2140 | for-profit corporation and its subsidiaries, except minutes of

2141 | meetings open to the public pursuant to subsection (9);

2142 |       9. Information that reveals plans for marketing services

2143 | that the corporation or its subsidiaries reasonably expect to be

2144 | provided by competitors;

2145 |       10. Trade secrets as defined in s. 688.01 ~~s. 688.002~~,

2146 | including:

2147 |       a. Information relating to methods of manufacture or

2148 | production, ~~potential trade secrets~~, potentially patentable

2149 | materials, or proprietary information received, generated,

2150 | ascertained, or discovered during the course of research

2151 | conducted by the not-for-profit corporation or its subsidiaries;  
 2152 | and

2153 |       b. Reimbursement methodologies or rates;

2154 |       11. The identity of donors or prospective donors of  
 2155 | property who wish to remain anonymous or any information  
 2156 | identifying such donors or prospective donors. The anonymity of  
 2157 | these donors or prospective donors must be maintained in the  
 2158 | auditor's report; or

2159 |       12. Any information received by the not-for-profit  
 2160 | corporation or its subsidiaries from an agency in this or  
 2161 | another state or nation or the Federal Government which is  
 2162 | otherwise exempt or confidential pursuant to the laws of this or  
 2163 | another state or nation or pursuant to federal law.

2164 |  
 2165 | As used in this paragraph, the term "managed care" means systems  
 2166 | or techniques generally used by third-party payors or their  
 2167 | agents to affect access to and control payment for health care  
 2168 | services. Managed-care techniques most often include one or more  
 2169 | of the following: prior, concurrent, and retrospective review of  
 2170 | the medical necessity and appropriateness of services or site of  
 2171 | services; contracts with selected health care providers;  
 2172 | financial incentives or disincentives related to the use of  
 2173 | specific providers, services, or service sites; controlled  
 2174 | access to and coordination of services by a case manager; and  
 2175 | payor efforts to identify treatment alternatives and modify

2176 benefit restrictions for high-cost patient care.

2177 Section 81. Paragraph (a) of subsection (2) of section  
2178 1004.4472, Florida Statutes, is amended to read:

2179 1004.4472 Florida Institute for Human and Machine  
2180 Cognition, Inc.; public records exemption; public meetings  
2181 exemption.—

2182 (2) The following information held by the corporation or  
2183 its subsidiary is confidential and exempt from s. 119.07(1) and  
2184 s. 24(a), Art. I of the State Constitution:

2185 (a) Material relating to methods of manufacture or  
2186 production, ~~potential trade secrets~~, patentable material, ~~actual~~  
2187 trade secrets as defined in s. 688.01 ~~s. 688.002~~ or proprietary  
2188 information received, generated, ascertained, or discovered  
2189 during the course of research conducted by or through the  
2190 corporation or a subsidiary, and business transactions resulting  
2191 from such research.

2192 Section 82. Subsection (2) of section 1004.78, Florida  
2193 Statutes, is amended to read:

2194 1004.78 Technology transfer centers at Florida College  
2195 System institutions.—

2196 (2) The Florida College System institution board of  
2197 trustees shall set such policies to regulate the activities of  
2198 the technology transfer center as it may consider necessary to  
2199 effectuate the purposes of this section and to administer the  
2200 programs of the center in a manner which assures efficiency and

2201 effectiveness, producing the maximum benefit for the educational  
2202 programs and maximum service to the state. To this end,  
2203 materials that relate to methods of manufacture or production,  
2204 ~~potential trade secrets~~, potentially patentable material, ~~actual~~  
2205 trade secrets as defined in s. 688.01, business transactions, or  
2206 proprietary information received, generated, ascertained, or  
2207 discovered during the course of activities conducted within the  
2208 Florida College System institutions shall be confidential and  
2209 exempt from the provisions of s. 119.07(1), except that a  
2210 Florida College System institution shall make available upon  
2211 request the title and description of a project, the name of the  
2212 investigator, and the amount and source of funding provided for  
2213 such project.

2214 Section 83. Section 601.80, Florida Statutes, is amended  
2215 to read:

2216 601.80 Unlawful to use uncertified coloring matter.—It is  
2217 unlawful for any person to use on oranges or citrus hybrids any  
2218 coloring matter which has not first received the approval of the  
2219 Department of Agriculture ~~as provided under s. 601.76~~.

2220 Section 84. Subsection (11) of section 663.533, Florida  
2221 Statutes, is amended to read:

2222 663.533 Applicability of the financial institutions  
2223 codes.—A qualified limited service affiliate is subject to the  
2224 financial institutions codes. Without limiting the foregoing,  
2225 the following provisions are applicable to a qualified limited

2226 service affiliate:

2227 ~~(11) Section 655.0591, relating to trade secret documents.~~

2228  
 2229 This section does not prohibit the office from investigating or  
 2230 examining an entity to ensure that it is not in violation of  
 2231 this chapter or applicable provisions of the financial  
 2232 institutions codes.

2233 Section 85. Paragraph (c) of subsection (12) of section  
 2234 721.13, Florida Statutes, is amended to read:

2235 721.13 Management.—

2236 (12)

2237 (c) The managing entity shall maintain copies of all  
 2238 records, data, and information supporting the processes,  
 2239 analyses, procedures, and methods utilized by the managing  
 2240 entity in its determination to reserve accommodations of the  
 2241 timeshare plan pursuant to this subsection for a period of 5  
 2242 years from the date of such determination. In the event of an  
 2243 investigation by the division for failure of a managing entity  
 2244 to comply with this subsection, the managing entity shall make  
 2245 all such records, data, and information available to the  
 2246 division for inspection, ~~provided that if the managing entity~~  
 2247 ~~complies with the provisions of s. 721.071, any such records,~~  
 2248 ~~data, and information provided to the division shall constitute~~  
 2249 ~~a trade secret pursuant to that section.~~

2250 Section 86. Paragraphs (a) and (c) of subsection (3) of

HB 801

2020

2251 section 921.0022, Florida Statutes, are amended to read:  
 2252 921.0022 Criminal Punishment Code; offense severity  
 2253 ranking chart.—

2254 (3) OFFENSE SEVERITY RANKING CHART

2255 (a) LEVEL 1

2256

Florida Statute	Felony Degree	Description
24.118 (3) (a)	3rd	Counterfeit or altered state lottery ticket.
212.054 (2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15 (2) (b)	3rd	Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000.
316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30 (5)	3rd	Sell, exchange, give away certificate of title or

2257

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HB 801

2020

2262			identification number plate.
	319.35 (1) (a)	3rd	Tamper, adjust, change, etc., an odometer.
2263			
	320.26 (1) (a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
2264			
	322.212 (1) (a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
2265			
	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
2266			
	322.212 (5) (a)	3rd	False application for driver license or identification card.
2267			
	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more

HB 801

2020

2268			than \$200.
	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
2269			
	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value \$1,000 or more.
2270			
	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
2271			
	713.69	3rd	Tenant removes property upon which lien has accrued, value \$1,000 or more.
2272			
	812.014 (3) (c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
2273			
	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.

HB 801

2020

2274	<u>815.04(4)(a)</u> <del>815.04(5)(a)</del>	3rd	Offense against intellectual property (i.e., computer programs, data).
2275	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
2276	817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
2277	826.01	3rd	Bigamy.
2278	828.122(3)	3rd	Fighting or baiting animals.
2279	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
2280	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled

HB 801

2020

			substances, all but s. 893.03(5) drugs.
2281	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
2282	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
2283	838.15(2)	3rd	Commercial bribe receiving.
2284	838.16	3rd	Commercial bribery.
2285	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
2286	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
2287	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or

HB 801

2020

2288	849.23	3rd	advertise drawing for prizes, or dispose of property or money by means of lottery.
2289	849.25 (2)	3rd	Gambling-related machines; "common offender" as to property rights.
2290	860.08	3rd	Engaging in bookmaking.
2291	860.13 (1) (a)	3rd	Interfere with a railroad signal.
2292	893.13 (2) (a) 2.	3rd	Operate aircraft while under the influence.
2293	893.13 (6) (a)	3rd	Purchase of cannabis.
2294	934.03 (1) (a)	3rd	Possession of cannabis (more than 20 grams).
2295			Intercepts, or procures any other person to intercept, any wire or oral communication.

HB 801

2020

2296	(c)	LEVEL 3		
2297				
	Florida		Felony	
	Statute		Degree	Description
2298				
	119.10 (2) (b)		3rd	Unlawful use of confidential information from police reports.
2299				
	316.066		3rd	Unlawfully obtaining or using confidential crash reports.
	(3) (b) - (d)			
2300				
	316.193 (2) (b)		3rd	Felony DUI, 3rd conviction.
2301				
	316.1935 (2)		3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
2302				
	319.30 (4)		3rd	Possession by junkyard of motor vehicle with identification number plate removed.
2303				
	319.33 (1) (a)		3rd	Alter or forge any certificate of title to a motor vehicle or

HB 801

2020

2304	319.33(1)(c)	3rd	mobile home. Procure or pass title on stolen vehicle.
2305	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
2306	327.35(2)(b)	3rd	Felony BUI.
2307	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
2308	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
2309	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
2310			

HB 801

2020

2311	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
2312	379.2431 (1) (e) 6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
2313	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.



HB 801

2020

2314	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
2315	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
2316	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
2317	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
2318	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
2319	626.902 (1) (a) &	3rd	Representing an unauthorized

HB 801

2020

2320	(b)		insurer.
2321	697.08	3rd	Equity skimming.
2322	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
2323	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
2324	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
2325	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
2326	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
	812.0145 (2) (c)	3rd	Theft from person 65 years of

HB 801

2020

			age or older; \$300 or more but less than \$10,000.
2327	812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
2328	<u>815.04 (4) (b)</u> <del>815.04 (5) (b)</del>	2nd	Computer offense devised to defraud or obtain property.
2329	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
2330	817.233	3rd	Burning to defraud insurer.
2331	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
2332	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
2333	817.236	3rd	Filing a false motor vehicle insurance application.

HB 801

2020

2334	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
2335	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
2336	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
2337	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
2338	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
2339	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.

HB 801

2020

2340	860.15 (3)	3rd	Overcharging for repairs and parts.
2341	870.01 (2)	3rd	Riot; inciting or encouraging.
2342	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).
2343	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs within 1,000 feet of university.
2344	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9.,

2345	893.13(4)(c)	3rd	(2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
2346	893.13(6)(a)	3rd	Use or hire of minor; deliver to minor other controlled substances.
2347	893.13(7)(a)8.	3rd	Possession of any controlled substance other than felony possession of cannabis.
2348	893.13(7)(a)9.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
2349	893.13(7)(a)10.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
			Affix false or forged label to package of controlled substance.

2350	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
2351	893.13 (8) (a) 1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
2352	893.13 (8) (a) 2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
2353	893.13 (8) (a) 3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.

HB 801

2020

2354

893.13 (8) (a) 4.            3rd    Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

2355

918.13 (1) (a)            3rd    Alter, destroy, or conceal investigation evidence.

2356

944.47                    3rd    Introduce contraband to (1) (a) 1. & 2.            correctional facility.

2357

944.47 (1) (c)            2nd    Possess contraband while upon the grounds of a correctional institution.

2358

985.721                    3rd    Escapes from a juvenile facility (secure detention or residential commitment facility).

2359

2360

Section 87. This act shall take effect upon becoming a law



HB 801

2020

2361 | if HB 799 or similar legislation is adopted in the same  
2362 | legislative session or an extension thereof and becomes law.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

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1 Committee/Subcommittee hearing bill: Oversight, Transparency &  
2 Public Management Subcommittee  
3 Representative Gregory offered the following:

**Amendment**

Remove lines 1940-1978 and insert:

7 Section 72. Subsections (5) through (14) of section  
8 655.057, Florida Statutes, are renumbered as subsections (4)  
9 through (13), respectively, and present subsections (4), (5),  
10 and (14) are amended to read:

655.057 Records; limited restrictions upon public access.-

12 ~~(4) Except as otherwise provided in this section and~~  
13 ~~except for those portions that are otherwise public record,~~  
14 ~~trade secrets as defined in s. 688.002 which comply with s.~~  
15 ~~655.0591 and which are held by the office in accordance with its~~  
16 ~~statutory duties with respect to the financial institutions~~

Amendment No.

17 ~~codes are confidential and exempt from s. 119.07(1) and s.~~  
18 ~~24(a), Art. I of the State Constitution.~~

19 (4)-(5) Neither this section nor s. 688.01 prevents ~~does~~  
20 ~~not prevent~~ or restricts ~~restrict~~:

21 (a) Publishing reports that are required to be submitted  
22 to the office pursuant to s. 655.045(2) or required by  
23 applicable federal statutes or regulations to be published.

24 (b) Furnishing records or information to any other state,  
25 federal, or foreign agency responsible for the regulation or  
26 supervision of financial institutions.

27 (c) Disclosing or publishing summaries of the condition of  
28 financial institutions and general economic and similar  
29 statistics and data, provided that the identity of a particular  
30 financial institution is not disclosed.

31 (d) Reporting any suspected criminal activity, with  
32 supporting documents and information, to appropriate law  
33 enforcement and prosecutorial agencies.

34 (e) Furnishing information upon request to the Chief  
35 Financial Officer or the Division of Treasury of the Department  
36 of Financial Services regarding the financial condition of any  
37 financial institution that is, or has applied to be, designated  
38 as a qualified public depository pursuant to chapter 280.

39 (f) Furnishing information to Federal Home Loan Banks  
40 regarding its member institutions pursuant to an information

Amendment No.

41 sharing agreement between the Federal Home Loan Banks and the  
42 office.

43

44 Any confidential information or records obtained from the office  
45 pursuant to this subsection shall be maintained as confidential  
46 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
47 Constitution.

48 (13)~~(14)~~ Subsections (1), (2), ~~(5)~~, and (8)~~(9)~~ are subject  
49 to the Open Government Sunset Review Act in accordance with s.  
50 119.15 and are repealed on October 2, 2022, unless reviewed and  
51 saved from repeal through reenactment by the Legislature.

52



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 821 Pub. Rec and Meetings/Information Technology Security Information

**SPONSOR(S):** Williamson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1170

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee		Toliver	Smith
2) State Affairs Committee			

### SUMMARY ANALYSIS

The Information Technology (IT) Security Act requires the Department of Management Services (DMS) and state agency heads to meet certain requirements in order to secure and protect state IT resources and the information contained therein. Currently, the IT Security Act provides public record exemptions for:

- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of data or IT resources;
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources;
- The results of internal audits and evaluations; and
- Records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents.

The bill expands the current public record exemption for records which identify detection, investigation, or response practices of IT security incidents in the IT security act to include network schematics, hardware and software configurations, or encryption. The bill also creates a public meeting exemption in the IT security act for those portions of a public meeting which would reveal any of the following confidential and exempt records:

- Portions of records which contain network schematics, hardware or software configurations, or encryption;
- Portions of records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents; and
- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of data or IT resources.

Any portion of a meeting exempt under the bill must be recorded and transcribed and those recordings and transcripts are confidential and exempt from public record requirements unless a court of competent jurisdiction, determines that the meeting was not restricted to the discussion of data and information. The bill provides for retroactive application of the public record and public meeting exemptions. It also provides for repeal of the exemptions on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature. Lastly, the bill provides a public necessity statement as required by the Florida Constitution.

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption for certain records relating to IT security and creates a public meeting exemption; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a).<sup>1</sup> The general law must state with specificity the public necessity justifying the exemption and must be no more broad than necessary to accomplish its purpose.<sup>2</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>3</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>4</sup>

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>5</sup>

##### Public Meetings

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be noticed and open to the public.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.<sup>6</sup> Minutes of a public meeting must be promptly recorded and be open to public inspection.<sup>7</sup> No resolution, rule, or formal action is considered binding, unless action is taken or made at a public meeting.<sup>8</sup>

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<sup>1</sup> Art. I, s. 24(c), FLA. CONST.

<sup>2</sup> *Id.*

<sup>3</sup> Section 119.15, F.S.

<sup>4</sup> Section 119.15(6)(b), F.S.

<sup>5</sup> Section 119.15(3), F.S.

<sup>6</sup> Section 286.011(1), F.S.

<sup>7</sup> Section 286.011(2), F.S.

<sup>8</sup> Section 286.011(1), F.S.

### Information Technology Security Act

The Information Technology (IT) Security Act<sup>9</sup> requires the Department of Management Services (DMS) and the heads of state agencies<sup>10</sup> to meet certain requirements to enhance the IT<sup>11</sup> security of state agencies. Specifically, the IT Security Act provides that DMS is responsible for establishing standards and processes consistent with generally accepted best practices for IT security,<sup>12</sup> including cybersecurity, and adopting rules that safeguard an agency's data, information, and IT resources to ensure availability, confidentiality, and integrity and to mitigate risks.<sup>13</sup> In addition, DMS must:

- Designate a state chief information security officer;
- Develop, and annually update, a statewide IT security strategic plan;
- Develop and publish an IT security framework for state agencies;
- Collaborate with the Cybercrime Office within the Florida Department of Law Enforcement (FDLE) in providing training for state agency information security managers; and
- Annually review the strategic and operational IT security plans of executive branch agencies.<sup>14</sup>

The IT Security Act requires the head of each state agency to designate an information security manager to administer the IT security program of the state agency.<sup>15</sup> In addition, the head of each state agency must annually submit to DMS the state agency's strategic and operational IT security plans; conduct, and update every three years, a comprehensive risk assessment to determine the security threats to the data, information, and IT resources of the state agency; develop, and periodically update, written internal policies and procedures, including procedures for reporting IT security incidents and breaches; and ensure that periodic internal audits and evaluations of the agency's IT security program for the data, information, and IT resources are conducted.<sup>16</sup>

### Current Public Record Exemptions under the IT Security Act

Currently, the IT Security Act provides that the following state agency information is confidential and exempt<sup>17</sup> from public record requirements:

- Comprehensive risk assessments;<sup>18</sup>
- Portions of risk assessments, evaluations, external audits,<sup>19</sup> and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of:
  - Physical or virtual data or information; or

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<sup>9</sup> Section 282.318, F.S.

<sup>10</sup> The term "state agency" is defined to mean any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. Section 282.0041(27), F.S. For purposes of the IT security act, the term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services. Section 282.318(2), F.S.

<sup>11</sup> The term "information technology" is defined to mean equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. Section 282.0041(14), F.S.

<sup>12</sup> The term "information technology security" is defined to mean the protection afforded to an automated information system in order to attain the applicable objectives of preserving the integrity, availability, and confidentiality of data, information, and information technology resources. Section 282.0041(17), F.S.

<sup>13</sup> Section 282.318(3), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 282.318(4)(a), F.S.

<sup>16</sup> Section 282.318(4), F.S.

<sup>17</sup> There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53-54 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-62 (1985).

<sup>18</sup> Section 282.318(4)(d), F.S.

<sup>19</sup> The term "external audit" is defined to mean an audit that is conducted by an entity other than the state agency that is the subject of the audit. Section 282.318(5), F.S.



- IT resources, including information relating to the security of the state agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or physical or virtual security information that relates to the state agency's existing or proposed IT systems.<sup>20</sup>
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources;<sup>21</sup>
- The results of internal audits and evaluations;<sup>22</sup> and
- Records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents.<sup>23</sup>

The confidential and exempt information must be disclosed to the Auditor General, the Cybercrime Office within FDLE, the Division of State Technology<sup>24</sup> within DMS, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.<sup>25</sup>

## Effect of the Bill

The bill expands the current public exemption for records which identify detection, investigation, or response practices of IT security incidents in the IT Security Act to include network schematics, hardware and software configurations, or encryption. The records would be confidential and exempt from public records requirements and would only be available to the Auditor General, the Cybercrime Office within FDLE, the Division of State Technology within DMS, and for agencies under the jurisdiction of the Governor, the Chief Inspector General.

The bill also creates a public meeting exemption in the IT Security Act for those portions of a public meeting which would reveal any of the following confidential and exempt records:

- Portions of records which contain network schematics, hardware or software configurations, or encryption;
- Portions of records which identify detection, investigation, or response practices for suspected or confirmed IT security incidents;
- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency if disclosure would facilitate the unauthorized access to, or the unauthorized modification, disclosure, or destruction of:
  - Physical or virtual data or information; or
  - IT resources, including information relating to the security of the state agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or physical or virtual security information that relates to the state agency's existing or proposed IT systems.

Any portion of a meeting exempt under the bill must be recorded and transcribed. The recordings and transcripts are confidential and exempt from public record requirements unless a court of competent jurisdiction, following an in camera review, determines that the meeting was not restricted to the discussion of data and information. If such a judicial determination occurs, only the portion of the recording or transcript which reveals nonexempt data may be disclosed to a third party.

The bill provides for retroactive application of the public record and public meeting exemptions. It also provides for repeal of the exemptions on October 2, 2025, unless reviewed and saved from repeal

<sup>20</sup> Section 282.318(5), F.S.

<sup>21</sup> Section 282.318(4)(e), F.S.

<sup>22</sup> Section 282.318(4)(g), F.S.

<sup>23</sup> Section 282.318(4)(j)3., F.S.

<sup>24</sup> The Division of State Technology (formerly the Agency for State Technology) is contained within DMS and is charged with overseeing the state's IT resources. Section 20.22(2)(b), F.S.

<sup>25</sup> Sections 282.318(4)(d),(e), (g), (j) and 282.318(5), F.S.

through reenactment by the Legislature. Finally, the bill provides a public necessity statement as required by the Florida Constitution.

**B. SECTION DIRECTORY:**

Section 1 amends s. 282.318, F.S., relating to the IT Security Act.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill could have a minimal fiscal impact on state agencies because staff responsible for complying with public records requests may require training related to creation of the public record exemptions. In addition, agencies could incur costs associated with redacting the confidential and exempt records prior to release. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of state agencies.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption and creates a public meeting exemption; therefore, it requires a two-thirds vote for final passage.

### Public Necessity Statement

Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption and creates a public meeting exemption; therefore, it includes a public necessity statement.

### Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record exemptions for certain state agency records, and portions thereof, related to IT security. The release of such records could result in the identification of vulnerabilities or gaps in a state agency's IT security system or processes and thereby increase the risk of an IT security incident or breach. Thus, the bill does not appear to be in conflict with the constitutional requirement that an exemption be no broader than necessary to accomplish its purpose.

#### B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority on an agency nor does it require the promulgation of rules.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The definition of "external audit" on lines 272-274 should appear flush left after a hard return as it applies to the entire subsection and not to the specific subparagraph in which it is placed.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to public records and meetings;  
 3           amending s. 282.318, F.S.; revising a provision to  
 4           reflect the abolishment of the Agency for State  
 5           Technology; providing an exemption from public records  
 6           requirements for portions of records held by a state  
 7           agency that contain network schematics, hardware and  
 8           software configurations, and encryption; providing an  
 9           exemption from public meetings requirements for  
 10          portions of meetings that would reveal such records;  
 11          requiring recording and transcription of exempt  
 12          portions of such meetings; providing an exemption from  
 13          public records requirements for such recordings and  
 14          transcripts; providing for future legislative review  
 15          and repeal of the exemptions under the Open Government  
 16          Sunset Review Act; providing for retroactive  
 17          application of the exemptions; providing a public  
 18          necessity statement; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1.   Section 282.318, Florida Statutes, is amended  
 23 to read:

24           282.318   Security of data and information technology.—  
 25           (1)   This section may be cited as the "Information

26 Technology Security Act."

27 (2) As used in this section, the term "state agency" has  
28 the same meaning as provided in s. 282.0041, except that the  
29 term includes the Department of Legal Affairs, the Department of  
30 Agriculture and Consumer Services, and the Department of  
31 Financial Services.

32 (3) The department is responsible for establishing  
33 standards and processes consistent with generally accepted best  
34 practices for information technology security, to include  
35 cybersecurity, and adopting rules that safeguard an agency's  
36 data, information, and information technology resources to  
37 ensure availability, confidentiality, and integrity and to  
38 mitigate risks. The department shall also:

39 (a) Designate a state chief information security officer  
40 who must have experience and expertise in security and risk  
41 management for communications and information technology  
42 resources.

43 (b) Develop, and annually update by February 1, a  
44 statewide information technology security strategic plan that  
45 includes security goals and objectives for the strategic issues  
46 of information technology security policy, risk management,  
47 training, incident management, and disaster recovery planning.

48 (c) Develop and publish for use by state agencies an  
49 information technology security framework that, at a minimum,  
50 includes guidelines and processes for:

51           1. Establishing asset management procedures to ensure that  
52 an agency's information technology resources are identified and  
53 managed consistent with their relative importance to the  
54 agency's business objectives.

55           2. Using a standard risk assessment methodology that  
56 includes the identification of an agency's priorities,  
57 constraints, risk tolerances, and assumptions necessary to  
58 support operational risk decisions.

59           3. Completing comprehensive risk assessments and  
60 information technology security audits, which may be completed  
61 by a private sector vendor, and submitting completed assessments  
62 and audits to the department.

63           4. Identifying protection procedures to manage the  
64 protection of an agency's information, data, and information  
65 technology resources.

66           5. Establishing procedures for accessing information and  
67 data to ensure the confidentiality, integrity, and availability  
68 of such information and data.

69           6. Detecting threats through proactive monitoring of  
70 events, continuous security monitoring, and defined detection  
71 processes.

72           7. Establishing agency computer security incident response  
73 teams and describing their responsibilities for responding to  
74 information technology security incidents, including breaches of  
75 personal information containing confidential or exempt data.

76           8. Recovering information and data in response to an  
77 information technology security incident. The recovery may  
78 include recommended improvements to the agency processes,  
79 policies, or guidelines.

80           9. Establishing an information technology security  
81 incident reporting process that includes procedures and tiered  
82 reporting timeframes for notifying the department and the  
83 Department of Law Enforcement of information technology security  
84 incidents. The tiered reporting timeframes shall be based upon  
85 the level of severity of the information technology security  
86 incidents being reported.

87           10. Incorporating information obtained through detection  
88 and response activities into the agency's information technology  
89 security incident response plans.

90           11. Developing agency strategic and operational  
91 information technology security plans required pursuant to this  
92 section.

93           12. Establishing the managerial, operational, and  
94 technical safeguards for protecting state government data and  
95 information technology resources that align with the state  
96 agency risk management strategy and that protect the  
97 confidentiality, integrity, and availability of information and  
98 data.

99           (d) Assist state agencies in complying with this section.

100           (e) In collaboration with the Cybercrime Office of the

101 Department of Law Enforcement, annually provide training for  
102 state agency information security managers and computer security  
103 incident response team members that contains training on  
104 information technology security, including cybersecurity,  
105 threats, trends, and best practices.

106 (f) Annually review the strategic and operational  
107 information technology security plans of executive branch  
108 agencies.

109 (4) Each state agency head shall, at a minimum:

110 (a) Designate an information security manager to  
111 administer the information technology security program of the  
112 state agency. This designation must be provided annually in  
113 writing to the department by January 1. A state agency's  
114 information security manager, for purposes of these information  
115 security duties, shall report directly to the agency head.

116 (b) In consultation with the department and the Cybercrime  
117 Office of the Department of Law Enforcement, establish an agency  
118 computer security incident response team to respond to an  
119 information technology security incident. The agency computer  
120 security incident response team shall convene upon notification  
121 of an information technology security incident and must comply  
122 with all applicable guidelines and processes established  
123 pursuant to paragraph (3)(c).

124 (c) Submit to the department annually by July 31, the  
125 state agency's strategic and operational information technology



126 security plans developed pursuant to rules and guidelines  
127 established by the department.

128 1. The state agency strategic information technology  
129 security plan must cover a 3-year period and, at a minimum,  
130 define security goals, intermediate objectives, and projected  
131 agency costs for the strategic issues of agency information  
132 security policy, risk management, security training, security  
133 incident response, and disaster recovery. The plan must be based  
134 on the statewide information technology security strategic plan  
135 created by the department and include performance metrics that  
136 can be objectively measured to reflect the status of the state  
137 agency's progress in meeting security goals and objectives  
138 identified in the agency's strategic information security plan.

139 2. The state agency operational information technology  
140 security plan must include a progress report that objectively  
141 measures progress made towards the prior operational information  
142 technology security plan and a project plan that includes  
143 activities, timelines, and deliverables for security objectives  
144 that the state agency will implement during the current fiscal  
145 year.

146 (d) Conduct, and update every 3 years, a comprehensive  
147 risk assessment, which may be completed by a private sector  
148 vendor, to determine the security threats to the data,  
149 information, and information technology resources, including  
150 mobile devices and print environments, of the agency. The risk

151 assessment must comply with the risk assessment methodology  
152 developed by the department and is confidential and exempt from  
153 s. 119.07(1), except that such information shall be available to  
154 the Auditor General, the Division of State Technology within the  
155 department, the Cybercrime Office of the Department of Law  
156 Enforcement, and, for state agencies under the jurisdiction of  
157 the Governor, the Chief Inspector General.

158 (e) Develop, and periodically update, written internal  
159 policies and procedures, which include procedures for reporting  
160 information technology security incidents and breaches to the  
161 Cybercrime Office of the Department of Law Enforcement and the  
162 Division of State Technology within the department. Such  
163 policies and procedures must be consistent with the rules,  
164 guidelines, and processes established by the department to  
165 ensure the security of the data, information, and information  
166 technology resources of the agency. The internal policies and  
167 procedures that, if disclosed, could facilitate the unauthorized  
168 modification, disclosure, or destruction of data or information  
169 technology resources are confidential information and exempt  
170 from s. 119.07(1), except that such information shall be  
171 available to the Auditor General, the Cybercrime Office of the  
172 Department of Law Enforcement, the Division of State Technology  
173 within the department, and, for state agencies under the  
174 jurisdiction of the Governor, the Chief Inspector General.

175 (f) Implement managerial, operational, and technical

176 safeguards and risk assessment remediation plans recommended by  
177 the department to address identified risks to the data,  
178 information, and information technology resources of the agency.

179 (g) Ensure that periodic internal audits and evaluations  
180 of the agency's information technology security program for the  
181 data, information, and information technology resources of the  
182 agency are conducted. The results of such audits and evaluations  
183 are confidential information and exempt from s. 119.07(1),  
184 except that such information shall be available to the Auditor  
185 General, the Cybercrime Office of the Department of Law  
186 Enforcement, the Division of State Technology within the  
187 department, and, for agencies under the jurisdiction of the  
188 Governor, the Chief Inspector General.

189 (h) Ensure that the information technology security and  
190 cybersecurity requirements in both the written specifications  
191 for the solicitation and service-level agreement of information  
192 technology and information technology resources and services  
193 meet or exceed the applicable state and federal laws,  
194 regulations, and standards for information technology security  
195 and cybersecurity. Service-level agreements must identify  
196 service provider and state agency responsibilities for privacy  
197 and security, protection of government data, personnel  
198 background screening, and security deliverables with associated  
199 frequencies.

200 (i) Provide information technology security and

201 cybersecurity awareness training to all state agency employees  
 202 in the first 30 days after commencing employment concerning  
 203 information technology security risks and the responsibility of  
 204 employees to comply with policies, standards, guidelines, and  
 205 operating procedures adopted by the state agency to reduce those  
 206 risks. The training may be provided in collaboration with the  
 207 Cybercrime Office of the Department of Law Enforcement.

208 (j) Develop a process for detecting, reporting, and  
 209 responding to threats, breaches, or information technology  
 210 security incidents which is consistent with the security rules,  
 211 guidelines, and processes established by the Division of State  
 212 Technology within the department ~~Agency for State Technology~~.

213 1. All information technology security incidents and  
 214 breaches must be reported to the Division of State Technology  
 215 within the department and the Cybercrime Office of the  
 216 Department of Law Enforcement and must comply with the  
 217 notification procedures and reporting timeframes established  
 218 pursuant to paragraph (3) (c).

219 2. For information technology security breaches, state  
 220 agencies shall provide notice in accordance with s. 501.171.

221 ~~(5)3-~~ Portions of records held by a state agency which  
 222 contain network schematics, hardware and software  
 223 configurations, or encryption, or which identify detection,  
 224 investigation, or response practices for suspected or confirmed  
 225 information technology security incidents, including suspected

226 or confirmed breaches, are confidential and exempt from s.  
227 119.07(1) and s. 24(a), Art. I of the State Constitution, if the  
228 disclosure of such records would facilitate unauthorized access  
229 to or the unauthorized modification, disclosure, or destruction  
230 of:

231 (a)~~a.~~ Data or information, whether physical or virtual; or

232 (b)~~b.~~ Information technology resources, which includes:

233 1.~~(I)~~ Information relating to the security of the agency's  
234 technologies, processes, and practices designed to protect  
235 networks, computers, data processing software, and data from  
236 attack, damage, or unauthorized access; or

237 2.~~(II)~~ Security information, whether physical or virtual,  
238 which relates to the agency's existing or proposed information  
239 technology systems.

240

241 ~~Such records shall be available to the Auditor General, the~~  
242 ~~Division of State Technology within the department, the~~  
243 ~~Cybercrime Office of the Department of Law Enforcement, and, for~~  
244 ~~state agencies under the jurisdiction of the Governor, the Chief~~  
245 ~~Inspector General. Such records may be made available to a local~~  
246 ~~government, another state agency, or a federal agency for~~  
247 ~~information technology security purposes or in furtherance of~~  
248 ~~the state agency's official duties. This exemption applies to~~  
249 ~~such records held by a state agency before, on, or after the~~  
250 ~~effective date of this exemption. This subparagraph is subject~~

251 ~~to the Open Government Sunset Review Act in accordance with s.~~  
252 ~~119.15 and shall stand repealed on October 2, 2021, unless~~  
253 ~~reviewed and saved from repeal through reenactment by the~~  
254 ~~Legislature.~~

255 (6)~~(5)~~ The portions of risk assessments, evaluations,  
256 external audits, and other reports of a state agency's  
257 information technology security program for the data,  
258 information, and information technology resources of the state  
259 agency which are held by a state agency are confidential and  
260 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
261 Constitution if the disclosure of such portions of records would  
262 facilitate unauthorized access to or the unauthorized  
263 modification, disclosure, or destruction of:

264 (a) Data or information, whether physical or virtual; or

265 (b) Information technology resources, which include:

266 1. Information relating to the security of the agency's  
267 technologies, processes, and practices designed to protect  
268 networks, computers, data processing software, and data from  
269 attack, damage, or unauthorized access; or

270 2. Security information, whether physical or virtual,  
271 which relates to the agency's existing or proposed information  
272 technology systems. For purposes of this subsection, "external  
273 audit" means an audit that is conducted by an entity other than  
274 the state agency that is the subject of the audit.

275 (7) Those portions of a public meeting as specified in s.

276 | 286.011 which would reveal records which are confidential and  
277 | exempt under subsection (5) or subsection (6) are exempt from s.  
278 | 286.011 and s. 24(b), Art. I of the State Constitution. No  
279 | exempt portion of an exempt meeting may be off the record. All  
280 | exempt portions of such meeting shall be recorded and  
281 | transcribed. Such recordings and transcripts are confidential  
282 | and exempt from disclosure under s. 119.07(1) and s. 24(a), Art.  
283 | I of the State Constitution unless a court of competent  
284 | jurisdiction, after an in camera review, determines that the  
285 | meeting was not restricted to the discussion of data and  
286 | information made confidential and exempt by this section. In the  
287 | event of such a judicial determination, only that portion of the  
288 | recording and transcript which reveals nonexempt data and  
289 | information may be disclosed to a third party.

290 |       (8) The ~~Such~~ portions of records made confidential and  
291 | exempt in subsections (5), (6), and (7) shall be available to  
292 | the Auditor General, the Cybercrime Office of the Department of  
293 | Law Enforcement, the Division of State Technology within the  
294 | department, and, for agencies under the jurisdiction of the  
295 | Governor, the Chief Inspector General. Such portions of records  
296 | may be made available to a local government, another state  
297 | agency, or a federal agency for information technology security  
298 | purposes or in furtherance of the state agency's official  
299 | duties. ~~For purposes of this subsection, "external audit" means~~  
300 | ~~an audit that is conducted by an entity other than the state~~

301 ~~agency that is the subject of the audit.~~

302 (9) The exemptions contained in subsections (5), (6), and  
 303 (7) apply ~~This exemption applies to such~~ records held by a state  
 304 agency before, on, or after the effective date of this  
 305 exemption.

306 (10) Subsections (5), (6), and (7) are ~~This subsection is~~  
 307 subject to the Open Government Sunset Review Act in accordance  
 308 with s. 119.15 and shall stand repealed on October 2, 2025 ~~2021~~,  
 309 unless reviewed and saved from repeal through reenactment by the  
 310 Legislature.

311 (11) ~~(6)~~ The department shall adopt rules relating to  
 312 information technology security and to administer this section.

313 Section 2. (1) (a) The Legislature finds it is a public  
 314 necessity that the following data or information held by a state  
 315 agency be made confidential and exempt from s. 119.07(1),  
 316 Florida Statutes, and s. 24(a), Article I of the State  
 317 Constitution:

318 1. Portions of records held by a state agency which  
 319 contain network schematics, hardware and software  
 320 configurations, encryption, or which identify detection,  
 321 investigation, or response practices for suspected or confirmed  
 322 information technology security incidents, including suspected  
 323 or confirmed information technology security incidents,  
 324 including suspected or confirmed breaches, if the disclosure of  
 325 such records would facilitate unauthorized access to or the



326 unauthorized modification, disclosure, or destruction of:  
327 a. Data or information, whether physical or virtual; or  
328 b. Information technology resources, which includes:  
329 (I) Information relating to the security of the agency's  
330 technologies, processes, and practices designed to protect  
331 networks, computers, data processing software, and data from  
332 attack, damage, or unauthorized access; or  
333 (II) Security information, whether physical or virtual,  
334 which relates to the agency's existing or proposed information  
335 technology systems.

336 2. Portions of risk assessments, evaluations, external  
337 audits, and other reports of a state agency's information  
338 technology security programs, if the disclosure of such portions  
339 of records would facilitate unauthorized access to or the  
340 unauthorized modification, disclosure, or destruction of:  
341 a. Data or information, whether physical or virtual; or  
342 b. Information technology resources, which include:  
343 (I) Information relating to the security of the state  
344 agency's technologies, processes, and practices designed to  
345 protect networks, computers, data processing software, and data  
346 from attack, damage, or unauthorized access; or  
347 (II) Security information, whether physical or virtual,  
348 which relates to the agency's existing or proposed information  
349 technology systems.

350 (b) Such records must be made confidential and exempt from

351 public records requirements for the following reasons:

352 1. Portions of records held by a state agency which  
353 contain network schematics, hardware and software  
354 configurations, encryption, or which identify information  
355 technology detection, investigation, or response practices for  
356 suspected or confirmed information technology security incidents  
357 or breaches are likely to be used in the investigations of the  
358 incidents or breaches. The release of such information could  
359 impede the investigation and impair the ability of reviewing  
360 entities to effectively and efficiently execute their  
361 investigative duties. In addition, the release of such  
362 information before an active investigation is completed could  
363 jeopardize the ongoing investigation.

364 2. An investigation of an information technology security  
365 incident or breach is likely to result in the gathering of  
366 sensitive personal information, including identification numbers  
367 and personal financial and health information. Such information  
368 could be used to commit identity theft or other crimes. In  
369 addition, release of such information could subject possible  
370 victims of the security incident or breach to further harm.

371 3. Disclosure of a record, including a computer forensic  
372 analysis, or other information that would reveal weaknesses in a  
373 state agency's data security could compromise that security in  
374 the future if such information were available upon conclusion of  
375 an investigation or once an investigation ceased to be active.

376        4. Such records are likely to contain proprietary  
377 information about the security of the system at issue. The  
378 disclosure of such information could result in the  
379 identification of vulnerabilities and further breaches of that  
380 system. In addition, the release of such information could give  
381 business competitors an unfair advantage and weaken the security  
382 technology supplier supplying the proprietary information in the  
383 marketplace.

384        5. The disclosure of such records could potentially  
385 compromise the confidentiality, integrity, and availability of  
386 state agency data and information technology resources, which  
387 would significantly impair the administration of vital state  
388 programs. It is necessary that this information be made  
389 confidential in order to protect the technology systems,  
390 resources, and data of state agencies.

391        6. It is valuable, prudent, and critical to a state agency  
392 to have an independent entity conduct a risk assessment, an  
393 audit, or an evaluation or complete a report of the agency's  
394 information technology program or related systems. Such  
395 documents would likely include an analysis of the agency's  
396 current information technology program or systems which could  
397 clearly identify vulnerabilities or gaps in current systems or  
398 processes and propose recommendations to remedy identified  
399 vulnerabilities.

400        (2) (a) 1. The Legislature also finds that it is a public

401 necessity that those portions of a public meeting which would  
402 reveal data and information described in paragraph (1)(a) be  
403 made exempt from s. 286.011, Florida Statutes, and s. 24(b),  
404 Article I of the State Constitution.

405 2. Such meetings must be made exempt from open meetings  
406 requirements in order to protect agency information technology  
407 systems, resources, and data. This information would clearly  
408 identify a state agency's information technology systems and its  
409 vulnerabilities and disclosure of such information would  
410 jeopardize the information technology security of the state  
411 agency and compromise the integrity and availability of state  
412 agency data and information technology resources. Such  
413 disclosure would significantly impair the administration of  
414 state programs.

415 (b)1. The Legislature further finds that it is a public  
416 necessity that the recordings and transcripts of the portions of  
417 meetings specified in subparagraph (a)1. be made confidential  
418 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
419 Article I of the State Constitution.

420 2. It is necessary that the resulting recordings and  
421 transcripts be made confidential and exempt from public record  
422 requirements in order to protect state information technology  
423 systems, resources, and data. The disclosure of such recordings  
424 and transcripts would clearly identify a state agency's  
425 information technology systems and its vulnerabilities. This

HB 821

2020

426 | disclosure would jeopardize the information technology security  
427 | of the agency and compromise the integrity and availability of  
428 | state data and information technology resources, which would  
429 | significantly impair the administration of state programs.

430 | (3) The Legislature further finds that these public  
431 | meeting and public records exemptions must be given retroactive  
432 | application because they are remedial in nature.

433 | Section 3. This act shall take effect upon becoming a law.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Oversight, Transparency &  
2 Public Management Subcommittee  
3 Representative Williamson offered the following:  
4  
5

**Amendment**

6 Remove lines 272-274 and insert:  
7 technology systems.  
8

9 For purposes of this subsection, "external audit" means an audit  
10 that is conducted by an entity other than the state agency that  
11 is the subject of the audit.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB OTM 20-08 OGSR/ServiceMembers and Families

**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7010

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Smith	Smith

### SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Current law provides a public record exemption for the identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. In order for the exemption to apply, the member must submit to the custodial agency a written request that his or her information be exempt and a written statement that reasonable efforts have been made to protect the identification and location information from being accessible through other means available to the public.

Current law defines "identification and location information" to mean the:

- Home address, telephone number, and date of birth of a servicemember;
- Home address, telephone number, date of birth, and place of employment of the spouse or dependent of a servicemember; and
- Name and location of a school attended by the spouse or dependent of a servicemember or day care facility attended by a dependent.

The bill reenacts the public record exemption for the identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. The bill expands the exemption by removing the requirement that a servicemember provide a written statement to the custodial agency attesting that reasonable efforts have been made to protect the exempted information from being accessible through other means available to the public. As a result, the bill extends the repeal date from October 2, 2020, to October 2, 2025. It also provides a public necessity statement as required by the State Constitution.

The bill does not appear to have a fiscal impact on the state or local government.

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.**



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>3</sup>

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>4</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created<sup>5</sup> then a public necessity statement and a two-thirds vote for passage are not required.

##### Public Record Exemption under Review

Current law provides a public record exemption for the identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents.<sup>6</sup> The term "identification and location information" is defined to mean the:

- Home address, telephone number, and date of birth of the servicemember;
- Home address, telephone number, date of birth, and place of employment of the spouse or dependent of the servicemember; and
- Name and location of a school attended by the spouse or dependent of a servicemember or day care facility attended by a dependent.

In order for the exemption to apply, the servicemember must submit to the custodial agency a written request to exempt the information from public record requirements. In addition, the servicemember must submit a written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Section 24(c), Art. I of the State Constitution.

<sup>5</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

<sup>6</sup> Section 119.071(5)(k), F.S.

The 2015 public necessity statement<sup>7</sup> for the exemption provides that:

Servicemembers perform among the most critical, most effective, and most dangerous operations in defense of our nation's freedom. Terrorist groups have threatened servicemembers and their families and have encouraged terrorist sympathizers to harm servicemembers and their families within the United States.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.

### **Effect of the Bill**

The bill reenacts and expands the public record exemption for identification and location information of current or former members of the U.S. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouses and dependents. The bill expands the exemption by removing the requirement that a servicemember provide a written statement to the custodial agency attesting that reasonable efforts were made to protect the identification and location information from being accessible through other means available to the public. Because the bill expands the current exemption, the bill extends the repeal date from October 2, 2020, to October 2, 2025. It also provides a public necessity statement as required by the State Constitution.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 119.071, F.S., relating to a public record exemption for identification and location information of current or former members of the US. Armed Forces, their reserve components, or the National Guard, who served after September 11, 2001, and their spouse and dependents.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of October 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates expands a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands a public record exemption by removing the requirement that a servicemember provide a statement that reasonable efforts were made to protect the identification and location information from being accessible through other means available to the public. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 119.071, F.S., which  
 4           provides a public records exemption for the  
 5           identification and location information of  
 6           servicemembers and the spouses and dependents of  
 7           servicemembers; expanding the exemption by removing  
 8           the requirement that a servicemember submit a written  
 9           statement that reasonable efforts have been made to  
 10          protect the information in order to claim the  
 11          exemption; providing for future legislative review and  
 12          repeal of the exemption; providing a statement of  
 13          public necessity; providing an effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Paragraph (k) of subsection (5) of section  
 18   119.071, Florida Statutes, is amended to read:

19           119.071 General exemptions from inspection or copying of  
 20   public records.—

21           (5) OTHER PERSONAL INFORMATION.—

22           (k)1. For purposes of this paragraph, the term:

23           a. "Identification and location information" means the:

24           (I) Home address, telephone number, and date of birth of a  
 25   servicemember, and the telephone number associated with a

26 | servicemember's personal communication device.

27 |       (II) Home address, telephone number, date of birth, and  
28 | place of employment of the spouse or dependent of a  
29 | servicemember, and the telephone number associated with such  
30 | spouse's or dependent's personal communication device.

31 |       (III) Name and location of a school attended by the spouse  
32 | of a servicemember or a school or day care facility attended by  
33 | a dependent of a servicemember.

34 |       b. "Servicemember" means a current or former member of the  
35 | Armed Forces of the United States, a reserve component of the  
36 | Armed Forces of the United States, or the National Guard, who  
37 | served after September 11, 2001.

38 |       2. Identification and location information held by an  
39 | agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the  
40 | State Constitution if a servicemember submits to an agency that  
41 | has custody of the identification and location information:

42 |       ~~a.~~ a written request to exempt the identification and  
43 | location information from public disclosure; ~~and~~

44 |       ~~b.~~ ~~A written statement that he or she has made reasonable~~  
45 | ~~efforts to protect the identification and location information~~  
46 | ~~from being accessible through other means available to the~~  
47 | ~~public.~~

48 |       3. This exemption applies to identification and location  
49 | information held by an agency before, on, or after the effective  
50 | date of this exemption.

51 4. This paragraph is subject to the Open Government Sunset  
 52 Review Act in accordance with s. 119.15 and shall stand repealed  
 53 on October 2, 2025 ~~2020~~, unless reviewed and saved from repeal  
 54 through reenactment by the Legislature.

55 Section 2. The Legislature finds that it is a public  
 56 necessity to make identification and location information of  
 57 current or former members of the Armed Forces of the United  
 58 States, a reserve component of the Armed Forces of the United  
 59 States, or the National Guard, who served after September 11,  
 60 2001, and their spouses and dependents, exempt from s.  
 61 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 62 State Constitution, regardless of whether such individuals made  
 63 reasonable efforts to protect such information from being  
 64 public. Servicemembers perform among the most critical, most  
 65 effective, and most dangerous operations in defense of our  
 66 nation's freedom. Terrorist groups continue to threaten  
 67 servicemembers and their families and encourage terrorist  
 68 sympathizers to harm servicemembers and their families within  
 69 the United States. The Legislature finds that allowing public  
 70 access to the identification and location information of current  
 71 or former servicemembers and their families jeopardizes the  
 72 safety of servicemembers, their spouses, and their dependents.  
 73 The Legislature finds that protecting the safety and security of  
 74 current or former members of the Armed Forces of the United  
 75 States, a reserve component of the Armed Forces of the United

PCB OTM 20-08

ORIGINAL

2020

76 | States, or the National Guard, who served after September 11,  
77 | 2001, and their spouses and dependents, outweighs any public  
78 | benefit that may be derived from the public disclosure of the  
79 | identification and location information.

80 |       Section 3. This act shall take effect October 1, 2020.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB OTM 20-09 OGSR/Child Abuse Death Review Committees

**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7002

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee		Smith	Smith

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**SUMMARY ANALYSIS**

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Current law establishes the State Child Abuse Death Review Committee (state committee) and local child abuse death review committees (local committee) within the Department of Health. The state and local committees must review the facts and circumstances of all deaths of children, from birth through age 18, that occur in the state and are reported to the central abuse hotline of the Department of Children and Families. The state committee must prepare an annual statistical report containing data, trends, analysis, findings, and recommendations for state and local action to prevent deaths from child abuse.

Current law provides a public record and public meeting exemption for the state committee and local committees. The public record exemption protects any information held by the committees that reveals the identity of the surviving siblings, family members, or others living in the home of the deceased child under review. Portions of meetings of the state or a local committee at which confidential and exempt information is discussed are exempt from public meeting requirements.

The bill saves from repeal the public record and public meeting exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not have a fiscal impact on the state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>3</sup>

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>4</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created<sup>5</sup> then a public necessity statement and a two-thirds vote for passage are not required.

##### Child Abuse Death Review Committees

In 1999, the Legislature passed the Kayla McKean Child Protection Act<sup>6</sup> that established the State Child Abuse Death Review Committee (state committee) and local child abuse death review committees (local committees) within the Department of Health (DOH).<sup>7</sup> The committees are tasked with reviewing the facts and circumstances surrounding the deaths of children in the state which occur as the result of reported child abuse or neglect and to prepare an annual statistical report on the incidence and causes of death resulting from child abuse.<sup>8</sup> Prior to 2014, the state and local committees reviewed only the deaths of children that were the result of verified child abuse or neglect.<sup>9</sup> In 2014, the Legislature expanded the jurisdiction of the committees to require the deaths of all children, from birth through age 18, that occur in Florida and are reported to the central abuse hotline of the Department of Children and Families (DCF) to be reviewed.<sup>10</sup>

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Section 24(c), Art. I of the State Constitution.

<sup>5</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

<sup>6</sup> Mireya Navarro, *Florida Will Tighten Child Welfare Policies After Father's Killing of Girl*, 6, N.Y. TIMES, Dec. 5, 1998, available at <https://www.nytimes.com/1998/12/05/us/florida-will-tighten-child-welfare-policies-after-father-s-killing-of-girl-6.html> (last visited Jan. 8, 2020).

<sup>7</sup> Chapter 99-168, L.O.F.

<sup>8</sup> *Id.*

<sup>9</sup> See s. 383.402(1), F.S. (2013).

<sup>10</sup> Chapter 2014-224, L.O.F.

A local committee's primary function is to conduct individual case reviews of deaths, generate information, make recommendations, and implement improvements at the local level.<sup>11</sup> The state committee's primary function is to provide direction and leadership for the review system and to analyze data and recommendations from local committees to identify statewide issues and trends.<sup>12</sup> The state committee must prepare an annual statistical report containing data, trends, analysis, findings, and recommendations for state and local action to prevent deaths from child abuse.<sup>13</sup>

The state and local committees have broad access to any information related to the deceased child or the child's family that is necessary to carry out their duties, including:<sup>14</sup>

- Medical, dental, or mental health care records;
- Records in the possession of state agency or political subdivision; and
- Records of law enforcement that are not part of an active investigation.

In order to protect the rights of the child and the child's parents or persons responsible for the child's welfare, all records held by DCF concerning reports of child abandonment, abuse, or neglect, are confidential and exempt<sup>15</sup> from public record requirements.<sup>16</sup>

#### Public Record and Public Meeting Exemption under Review

Current law provides a public record and public meeting exemption for the State Child Abuse Death Review Committee and local child abuse death review committees.<sup>17</sup> Information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of review by the state committee or a local committee is confidential and exempt from public record requirements.<sup>18</sup> In addition, confidential or exempt information obtained by the state committee or a local committee retains its confidential or exempt status.<sup>19</sup> Any person who knowingly or willfully violates the public records exemption commits a misdemeanor of the first degree.<sup>20</sup>

Portions of meetings of the state or a local committee at which confidential and exempt information is discussed is exempt from public meeting requirements.<sup>21</sup> The closed portion of a meeting must be recorded, and no portion may be off the record.<sup>22</sup>

The public record and public meeting exemption was initially enacted by the Legislature in 1999 alongside the substantive bill creating the state and local committees.<sup>23</sup> The exemption was amended and reenacted, thereafter in 2005,<sup>24</sup> 2010,<sup>25</sup> and 2015.<sup>26</sup> The Legislature, in its original public necessity

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<sup>11</sup> Section 383.402(7), F.S.

<sup>12</sup> Section 383.402(1), F.S.

<sup>13</sup> Section 383.402(4), F.S.

<sup>14</sup> Section 383.402(5), F.S.

<sup>15</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (Aug. 1, 1985).

<sup>16</sup> Section 39.202(1), F.S.

<sup>17</sup> Section 383.412, F.S.

<sup>18</sup> Section 383.412(2)(a)-(b), F.S.

<sup>19</sup> Section 383.412(c), F.S.

<sup>20</sup> Section 383.412(5), F.S. A misdemeanor of the first degree is punishable by imprisonment not to exceed one year and a fee not to exceed \$1,000. Sections 775.082 and 775.083, F.S.

<sup>21</sup> Section 383.412(3), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Chapter 99-210, L.O.F.

<sup>24</sup> Chapter 2005-190, L.O.F.

<sup>25</sup> Chapter 2010-40, L.O.F.

<sup>26</sup> Chapter 2015-77, L.O.F.

statement,<sup>27</sup> found that the release of sensitive, personal information could hamper open communication and coordination among parties during the death review and that the harm resulting from the release of such information substantially outweighed any public benefit.<sup>28</sup> However, allowing the committees to have access to the confidential records “increases the potential for reduced morbidity or mortality of children and reduces the potential for poor outcomes for children, thereby improving the overall quality of life for children.”<sup>29</sup>

Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions will repeal on October 2, 2020, unless reenacted by the Legislature.<sup>30</sup>

During the 2019 interim, subcommittee staff met with representatives from the Department of Health (DOH) and the Department of Children and Families (DCF) and conducted surveys of each of the 23 local review committees. DOH and DCF representatives stated that the exemptions have been effective and recommended making no changes to the statewide exemption. Survey responses were similar with near unanimous support for the public record and public meeting exemptions to be reenacted without changes to ensure continued coordination and open communication between and among the state and local committees.<sup>31</sup>

### **Effect of the Bill**

The bill removes the scheduled repeal date of the public record and public meeting exemption thereby reenacting the public record and public meeting exemption for identifying information held by the State Child Abuse Death Review Committee or a local child abuse death review committee.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 383.412, F.S., to save from repeal the public record and public meeting exemption for identifying information held by the State Child Abuse Death Review Committee or a local child abuse death review committee.

Section 2 provides an effective date of October 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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<sup>27</sup> Section 24(c), Art. I, of the State Constitution requires each public record and public meeting exception to “state with specificity the public necessity justifying the exemption.”

<sup>28</sup> Chapter 99-210, L.O.F.

<sup>29</sup> *Id.*

<sup>30</sup> Section 383.412(6), F.S.

<sup>31</sup> Open Government Sunset Review Questionnaire, responses on file with the Oversight, Transparency & Public Management Subcommittee.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority on an agency nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 383.412, F.S., which  
 4           provides an exemption from public record requirements  
 5           for certain identifying information held by the State  
 6           Child Abuse Death Review Committee or local committee  
 7           for certain purposes and provides an exemption from  
 8           public meeting requirements for meetings wherein such  
 9           information is discussed; removing the scheduled  
 10          repeal of the exemption; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Section 383.412, Florida Statutes, is amended  
 15           to read:

16           383.412 Public records and public meetings exemptions.—

17           (1) For purposes of this section, the term "local  
 18           committee" means a local child abuse death review committee or a  
 19           panel or committee assembled by the State Child Abuse Death  
 20           Review Committee or a local child abuse death review committee  
 21           pursuant to s. 383.402.

22           (2) (a) Any information held by the State Child Abuse Death  
 23           Review Committee or a local committee which reveals the identity  
 24           of the surviving siblings of a deceased child whose death  
 25           occurred as the result of a verified report of abuse or neglect

26 | is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
27 | I of the State Constitution.

28 |       (b) Any information held by the State Child Abuse Death  
29 | Review Committee or a local committee which reveals the identity  
30 | of a deceased child whose death has been reported to the central  
31 | abuse hotline but determined not to be the result of abuse or  
32 | neglect, or the identity of the surviving siblings, family  
33 | members, or others living in the home of such deceased child, is  
34 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
35 | of the State Constitution.

36 |       (c) Information made confidential or exempt from s.  
37 | 119.07(1) and s. 24(a), Art. I of the State Constitution which  
38 | is obtained by the State Child Abuse Death Review Committee or a  
39 | local committee shall retain its confidential or exempt status.

40 |       (3) (a) Portions of meetings of the State Child Abuse Death  
41 | Review Committee or a local committee at which information made  
42 | confidential and exempt pursuant to subsection (2) is discussed  
43 | are exempt from s. 286.011 and s. 24(b), Art. I of the State  
44 | Constitution. The closed portion of a meeting must be recorded,  
45 | and no portion of the closed meeting may be off the record. The  
46 | recording shall be maintained by the State Child Abuse Death  
47 | Review Committee or a local committee.

48 |       (b) The recording of a closed portion of a meeting is  
49 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
50 | Constitution.

51 (4) The State Child Abuse Death Review Committee and local  
 52 committees may share information made confidential and exempt by  
 53 this section:

54 (a) With each other;

55 (b) With a governmental agency in furtherance of its  
 56 duties; or

57 (c) With any person or entity authorized by the Department  
 58 of Health to use such relevant information for bona fide  
 59 research or statistical purposes. A person or entity who is  
 60 authorized to obtain such relevant information for research or  
 61 statistical purposes must enter into a privacy and security  
 62 agreement with the Department of Health and comply with all laws  
 63 and rules governing the use of such records and information for  
 64 research or statistical purposes. Anything identifying the  
 65 subjects of such relevant information must be treated as  
 66 confidential by the person or entity and may not be released in  
 67 any form.

68 (5) Any person who knowingly or willfully makes public or  
 69 discloses to any unauthorized person any information made  
 70 confidential and exempt under this section commits a misdemeanor  
 71 of the first degree, punishable as provided in s. 775.082 or s.  
 72 775.083.

73 ~~(6) This section is subject to the Open Government Sunset~~  
 74 ~~Review Act in accordance with s. 119.15, and shall stand~~  
 75 ~~repealed on October 2, 2020, unless reviewed and saved from~~



PCB OTM 20-09

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76 | ~~repeal through reenactment by the Legislature.~~

77 |       Section 2. This act shall take effect October 1, 2020.