

PCB GEAC 08-18

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to public records; renumbering and
 3 amending s. 119.0711(1), F.S.; transferring provisions
 4 which provide a public record exemption for complaints and
 5 other records in the custody of any agency in the
 6 executive branch of state government which relate to a
 7 complaint of discrimination; expanding the exemption to
 8 provide for applicability to any agency rather than any
 9 agency in the executive branch of state government;
 10 providing for future legislative review of the exemption;
 11 providing a statement of public necessity; amending s.
 12 338.223, F.S.; conforming a cross-reference; providing an
 13 effective date.

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

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 17 Section 1. Subsection (1) of section 119.0711, Florida
 18 Statutes, is transferred and redesignated as paragraph (g) of
 19 subsection (2) of section 119.071, Florida Statutes, and amended
 20 to read:

21 119.071 General exemptions from inspection or copying of
 22 public records.--

23 (2) AGENCY INVESTIGATIONS.--

24 (g)1.a. All complaints and other records in the custody of
 25 any agency ~~in the executive branch of state government~~ which
 26 relate to a complaint of discrimination relating to race, color,
 27 religion, sex, national origin, age, handicap, or marital status

PCB GEAC 08-18

ORIGINAL

YEAR

28 | in connection with hiring practices, position classifications,
 29 | salary, benefits, discipline, discharge, employee performance,
 30 | evaluation, or other related activities are exempt from s.
 31 | 119.07(1) and s. 24(a), Art. I of the State Constitution until a
 32 | finding is made relating to probable cause, the investigation of
 33 | the complaint becomes inactive, or the complaint or other record
 34 | is made part of the official record of any hearing or court
 35 | proceeding.

36 | b. This provision shall not affect any function or
 37 | activity of the Florida Commission on Human Relations.

38 | c. Any state or federal agency that is authorized to have
 39 | access to such complaints or records by any provision of law
 40 | shall be granted such access in the furtherance of such agency's
 41 | statutory duties.

42 | 2. When the alleged victim chooses not to file a complaint
 43 | and requests that records of the complaint remain confidential,
 44 | all records relating to an allegation of employment
 45 | discrimination are confidential and exempt from s. 119.07(1) and
 46 | s. 24(a), Art. I of the State Constitution.

47 | 3. This paragraph is subject to the Open Government Sunset
 48 | Review Act in accordance with s. 119.15, and shall stand
 49 | repealed on October 2, 2013, unless reviewed and saved from
 50 | repeal through reenactment by the Legislature.

51 | Section 2. The Legislature finds that it is a public
 52 | necessity that all complaints and other records in the custody
 53 | of any agency which relate to a complaint of discrimination
 54 | relating to race, color, religion, sex, national origin, age,

PCB GEAC 08-18

ORIGINAL

YEAR

55 handicap, or marital status in connection with hiring practices,
 56 position classifications, salary, benefits, discipline,
 57 discharge, employee performance, evaluation, or other related
 58 activities be made exempt from public record requirements until
 59 a finding is made relating to probable cause, the investigation
 60 of the complaint becomes inactive, or the complaint or other
 61 record is made part of the official record of any hearing or
 62 court proceeding. This exemption is necessary because the
 63 release of such information could potentially be defamatory to
 64 an individual under investigation or cause unwarranted damage to
 65 the good name or reputation of such individual. In addition, the
 66 Legislature finds that it is a public necessity that such
 67 information be made temporarily exempt from public record
 68 requirements so that the investigation is not otherwise
 69 significantly impaired. The exemption creates a secure
 70 environment in which an agency may conduct its investigation.

71 Section 3. Paragraph (b) of subsection (2) of section
 72 338.223, Florida Statutes, is amended to read:

73 338.223 Proposed turnpike projects.--

74 (2)

75 (b) In accordance with the legislative intent expressed in
 76 s. 337.273, and after the requirements of paragraph (1)(c) have
 77 been met, the department may acquire lands and property before
 78 making a final determination of the economic feasibility of a
 79 project. The requirements of paragraph (1)(c) do not apply to
 80 hardship and protective purchases of advance right-of-way by the
 81 department. The cost of advance acquisition of right-of-way may

PCB GEAC 08-18

ORIGINAL

YEAR

82 | be paid from bonds issued under s. 337.276 or from turnpike
 83 | revenues. For purposes of this paragraph, the term "hardship
 84 | purchase" means purchase from a property owner of a residential
 85 | dwelling of not more than four units who is at a disadvantage
 86 | due to health impairment, job loss, or significant loss of
 87 | rental income. For purposes of this paragraph, the term
 88 | "protective purchase" means that a purchase to limit
 89 | development, building, or other intensification of land uses
 90 | within the area right-of-way is needed for transportation
 91 | facilities. The department shall give written notice to the
 92 | Department of Environmental Protection 30 days before final
 93 | agency acceptance as set forth in s. 119.0711(2), which notice
 94 | shall allow the Department of Environmental Protection to
 95 | comment. Hardship and protective purchases of right-of-way shall
 96 | not influence the environmental feasibility of a project,
 97 | including the decision relative to the need to construct the
 98 | project or the selection of a specific location. Costs to
 99 | acquire and dispose of property acquired as hardship and
 100 | protective purchases are considered costs of doing business for
 101 | the department and are not to be considered in the determination
 102 | of environmental feasibility for the project.

103 | Section 4. This act shall take effect upon becoming a law.