

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill decreases access to public records.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The 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), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is further addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act¹ provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting 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; or
- Protecting trade or business secrets.

Current Public Records Exemptions

Current law provides that every owner or registrant of a motor vehicle required to be registered and licensed in this Florida shall maintain personal injury protection insurance in effect continuously throughout the registration or licensing period.

Section 627.736(9), F.S., provides that every insurer which issues a policy providing personal injury protection benefits shall report information regarding renewal, cancellation, or nonrenewal to the Department of Highway Safety and Motor Vehicles. These reports received by the department are confidential and exempt from the provisions of s. 119.07(1).

These records are to be used for enforcement and regulatory purposes only, including the generation by the department of data regarding compliance by owners of motor vehicles with financial responsibility coverage requirements including compliance with maintaining personal injury protection coverage.

The department is required to release, upon a written request by a person involved in a motor vehicle accident, by the person's attorney, or by a representative of the person's motor vehicle insurer, the

¹ Section 119.15, F.S.

name of the insurance company and the policy number for the policy covering the vehicle named by the requesting party. The written request must include a copy of the appropriate accident form.

Effective October 1, 2007, sections 627.730, 627.731, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, and 627.7405, Florida Statutes, constituting the Florida Motor Vehicle No-Fault Law, will sunset. Therefore, the requirement that that every owner or registrant of a motor vehicle required to be registered and licensed in Florida shall maintain personal injury protection insurance will sunset. Also, the requirement that insurers report information about personal injury protection policies and the public records exemption for the reports will sunset.

EFFECT OF BILL

The bill is tied to PCB RCC 07-08 which provides that every owner or registrant of a motor vehicle required to be registered and licensed in this Florida shall maintain emergency care coverage insurance in effect continuously throughout the registration or licensing period.

PCB RCC 07-08 also provides that every insurer which issues a policy providing emergency care benefits shall report information regarding renewal, cancellation, or nonrenewal to the Department of Highway Safety and Motor Vehicles. These records are to be used for enforcement and regulatory purposes only, including the generation by the department of data regarding compliance by owners of motor vehicles with financial responsibility coverage requirements.

The bill creates public records exemption for reports of cancellations, policy renewals, and reports of the issuance of new policies of emergency care benefits held by the department.

The department is required to release, upon a written request by a person involved in a motor vehicle accident, by the person's attorney, or by a representative of the person's motor vehicle insurer, the name of the insurance company and the policy number for the policy covering the vehicle named by the requesting party. The written request must include a copy of the appropriate accident form.

The bill provides for future review and repeal of the exemption on October 2, 2012. It also provides a public necessity statement as required by the State Constitution.

The bill shall take effect on the same date that PCB RCC 07-08 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law

C. SECTION DIRECTORY:

Section 1 creates s. 627.7364, F.S. creating public records exemption for reports of cancellations, policy renewals, and reports of the issuance of new policies held by the Department of Highway Safety and Motor Vehicles; provides an exception to the exemption; provides for future legislative review and repeal.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of the same date that PCB RCC 07-08 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:

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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:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

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 passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES