HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:   PCS for HB 491   Pub. Rec./Department of Gaming Control
SPONSOR(S): Business & Consumer Affairs Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Business & Consumer Affairs Subcommittee		Rojas	Creamer

SUMMARY ANALYSIS

The bill provides for an exemption to public records the proprietary confidential business information and trade secrets held by the Department of Gaming Control received from applicants applying for destination resort licenses. In addition, the bill provides for a public records exemption for federal employer identification numbers, unemployment compensation numbers, and Florida sales tax registration numbers.

Also, the bill provides a public record exemption for investigative techniques and procedures of the Department of Gaming Control. These are defined as methods, processes, and guidelines used to evaluate regulatory compliance and to collect and analyze information for the purpose of documenting violations.

The bill provides legislative findings related to each exemption stating the public necessity.

The bill has no fiscal impact on state funds.

The bill shall take effect on the same date that HB 487, or similar legislation, takes effect if such legislation is enacted in the same legislative session or an extension thereof and becomes law. The bill must be enacted by a two-thirds vote of the membership of each house or the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. 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 Act 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.

Effect of Proposed Changes

The bill provides for an exemption to public records the proprietary confidential business information and trade secrets held by the Department of Gaming Control received from applicants applying for destination resort licenses. In addition, the bill provides for a public records exemption for federal employer identification numbers, unemployment compensation numbers, and Florida sales tax registration numbers. The legislature finds that this information needs to remain confidential in order to not deter the best qualified applicants from applying. The selection of the best qualified applicant for a license is critical for the state to ensure that it receive the most economic benefit and greatest amount of tax revenues in granting a resort license.

Also, the bill provides a public record exemption for investigative techniques and procedures of the Department of Gaming Control. These are defined as methods, processes, and guidelines used to evaluate regulatory compliance and to collect and analyze information for the purpose of documenting violations. The legislature finds that it is a public necessity that information that would reveal the investigative techniques of procedures used by the department. Investigations are an essential component of gaming regulation. Allowing access to information revealing investigative techniques or procedures would undermine the investigative process and facilitate evasion of the law.

B. SECTION DIRECTORY:

Section 1 creates s. 551.303, F.S., proving confidentiality of public records.

Section 2 provides legislative findings of public necessity for public records exemptions.

Section 3 provides for the actions needed for the bill to become effected and the effective date of the legislation.

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

  2. Other:

   None

B. RULE-MAKING AUTHORITY:

   None

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES