

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 11-01 Open Government Sunset Review Act

SPONSOR(S): Government Operations Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	13 Y, 0 N	Williamson	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act (Act) 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.

The Act originally was created in 1984; however, it was repealed in 1995 and replaced with the Open Government Sunset Review Act of 1995. When the original Open Government Sunset Review Act was repealed in 1995 cross-references to the repealed section remained in law and those cross-references were not changed to reflect the new Act.

This bill corrects those outdated cross-references.

This bill does not have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ 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.

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:

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

History of the Act

The Act originally was created in 1984 and codified at s. 119.14, F.S.² At that time it set forth a legislative review process every 10 years after the creation of an exemption.³ In 1995, the original Open Government Sunset Review Act was repealed⁴ and replaced with the Open Government Sunset Review Act of 1995.⁵ The 1995 Act abolished the 10 year legislative review process and replaced it with a onetime review process the fifth year after creation or substantial amendment of an exemption.⁶ In 2005, the 1995 Act was amended to change the name back to the Open Government Sunset Review Act. In addition, redundant language was removed from the 1995 Act.⁷

Effect of Bill

When the original Open Government Sunset Review Act was repealed in 1995 cross-references to the repealed section remained in law and those cross-references were not changed to reflect the new Act. This bill corrects those outdated cross-references.

B. SECTION DIRECTORY:

Section 1 amends s. 27.151, F.S., to correct a cross-reference.

Section 2 amends s. 378.406, F.S., to correct a cross-reference.

Section 3 amends s. 400.0077, F.S., to correct a cross-reference.

Section 4 amends s. 403.111, F.S., to correct a cross-reference.

¹ Section 119.15, F.S.

² Section 8 of chapter 84-298, L.O.F.

³ Section 119.14(3)(a), F.S.

⁴ Section 1 of chapter 95-217, L.O.F.

⁵ Section 2 of chapter 95-217, L.O.F.

⁶ Section 119.15(3)(a), F.S.

⁷ Section 37 of chapter 2005-251, L.O.F.

Section 5 amends s. 655.0321, F.S., to correct a cross-reference.

Section 6 provides an effective date of July 1, 2011.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.