



State Affairs Committee

January 17, 2024
1:00 PM – 3:00 PM
Webster Hall (212 Knott)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time: Wednesday, January 17, 2024 01:00 pm

End Date and Time: Wednesday, January 17, 2024 03:00 pm

Location: Webster Hall (212 Knott)

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 191 Town of Orchid, Indian River County by Brackett

HM 351 Condemning the Emerging Partnership between the Chinese and Cuban Governments by Porras

HB 357 Special Observances by Holcomb

HB 1377 Pub. Rec./Investigations by the Department of Legal Affairs by Sirois

CS/HB 1491 Pub. Rec./Investigations by the Department of Legal Affairs by Regulatory Reform & Economic Development Subcommittee, Tramont, Overdorf

HB 7003 OGSR/Preregistered Voters by Ethics, Elections & Open Government Subcommittee, Holcomb

HB 7005 OGSR/Financial Disclosure by Ethics, Elections & Open Government Subcommittee, Holcomb

HB 7011 Inactive Special Districts by Local Administration, Federal Affairs & Special Districts Subcommittee, Persons-Mulicka

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 01/12/2024 4:00PM by Rando.Lexi

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 191 Town of Orchid, Indian River County

SPONSOR(S): Brackett

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Burgess	Darden
2) Ethics, Elections & Open Government Subcommittee	17 Y, 0 N	Skinner	Toliver
3) State Affairs Committee		Burgess	Williamson

SUMMARY ANALYSIS

A local government must hold its public meetings within its jurisdictional boundaries, unless specifically authorized by the Legislature to hold such meetings elsewhere. Municipalities with a population of 500 or fewer residents may hold public meetings outside of their boundary at a time and place prescribed by ordinance or resolution. Public meetings under this provision must be held within five miles of the exterior jurisdictional boundary of the municipality. As of April 1, 2023, there were 45 municipalities with estimated populations of 500 or fewer residents.

The Town of Orchid (Town) in Indian River County was incorporated in 1965. The Town does not own any meeting facilities within its jurisdictional limits and currently conducts public meetings in a room at a privately-owned golf club within its municipal boundaries. As of April 1, 2023, the Town had an estimated population of 531 people.

The bill creates an exception to general law allowing the Town to hold public meetings within five miles of its exterior jurisdictional boundary as long as its population does not exceed 1,250 people.

According to the economic impact statement, the bill will increase Town expenditures by \$1,500 in Fiscal Year 2024-25, as the Town will need to purchase seating and other furnishings for conducting meetings.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Meetings

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or 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, be open and noticed to the public.¹ The Legislature, however, may provide by general law an exemption² from public meeting requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.³

Current law also addresses public policy regarding access to government meetings by further requiring all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken, to be open to the public at all times, unless the meeting is exempt.⁴ The board or commission must provide reasonable notice of all public meetings.⁵ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.⁶ Minutes of a public meeting must be promptly recorded and open to public inspection.⁷ Failure to abide by public meeting requirements will invalidate any resolution, rule, or formal action adopted at a meeting.⁸ A public officer or member of a governmental entity who violates public meeting requirements is subject to civil and criminal penalties.⁹

Extra-territorial Public Meetings of Small Municipalities

The Florida Constitution provides that a municipality may exercise power outside of its boundaries only as authorized by the Legislature in a general or special law.¹⁰ For instance, in 2008, the Legislature authorized the city council of the City of Belleair Beach to hold its meetings outside of the municipality's boundaries at such time and place as prescribed by ordinance, resolution, or interlocal agreement.¹¹ The city council was encouraged to hold its meetings in close proximity to the people it serves.¹² In 2011, due to the number of situations in which small municipalities did not have the proper facilities available to hold public meetings, the Legislature permitted municipalities with populations of 500 or fewer residents to hold public meetings within five miles of their exterior jurisdictional boundaries.¹³ Prior to this statutory authorization, several Attorney General Opinions indicated municipalities lacked statutory authorization to hold public meetings outside of their jurisdiction and, without such statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction were void.¹⁴

¹ Art. I, s. 24(b), FLA. CONST.

² A public meeting exemption means a provision of general law which provides that a specified meeting, or portion thereof, is not subject to the access requirements of s. 286.011, F.S., or s. 24, Art. I of the Florida Constitution. See s. 119.011(8), F.S.

³ Art. I, s. 24(c), FLA. CONST.

⁴ S. 286.011(1), F.S.

⁵ *Id.*

⁶ S. 286.011(6), F.S.

⁷ S. 286.011(2), F.S.

⁸ S. 286.011(1), F.S.

⁹ S. 286.011(3), F.S.

¹⁰ Art. VIII, s. 2(c), FLA. CONST.

¹¹ Ch. 2008-286, Laws of Fla.

¹² *Id.*

¹³ Ch. 2011-147, Laws of Fla., codified as s. 166.0213, F.S.

¹⁴ 08-01 Op. Att'y Gen. Fla. 1 (2008). Also see 03-03 Op. Att'y Gen. 1 (2003); 75-139 Op. Att'y Gen. 1 (1975).

As of April 1, 2023, there were 45 municipalities with estimated populations of 500 residents or fewer.¹⁵

Town of Orchid

The Town of Orchid (Town) in Indian River County was incorporated in 1965.¹⁶ As of April 1, 2023, the Town had an estimated population of 531 residents.¹⁷ In 1985, the Deerfield Groves Partnership purchased a significant portion of the land within the municipal boundaries to expand its grapefruit operations.¹⁸ This was followed by a sale to Orchid Island Association Ltd. in 1987 for the purpose of establishing a luxury gated community centered around a golf course. The Town adopted a revised charter in 1988.¹⁹

The original plan of development for the Town included a town hall, but today the Town is mostly built out with few remaining parcels.²⁰

The Town does not own any meeting facilities within its jurisdictional limits that can accommodate larger meetings, such as the Town Council meetings. The Town currently holds its public meetings in the Sandpiper Room at the Orchid Island Golf & Beach Club within the municipal boundaries.²¹ According to a statement by the mayor, the club currently offers the Town space to hold public meetings free of charge, but may not do so in the future.²² Additionally, the popularity of the venue results in difficulty scheduling public meetings.

Effect of Proposed Changes

The bill provides findings that the Town currently owns no public meeting facilities within its boundaries and has no reasonable prospect of doing so in the future. The bill provides an exception to general law authorizing the Town to hold public meetings within five miles of its exterior jurisdictional boundary as long as its population does not exceed 1,250 people.

According to the economic impact statement, the bill will increase Town expenditures by \$1,500 in Fiscal Year 2024-25, as the Town will need to purchase seating and other furnishings for conducting meetings.

B. SECTION DIRECTORY:

Section 1: Provides legislative intent and exception to general law for the Town to hold public meetings outside of its jurisdictional boundary subject to certain conditions.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? August 18, 2023

¹⁵ Bureau of Economic and Business Research, *Florida Estimates of Populations 2023*, https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates_2023.pdf (last visited Jan. 5, 2024).

¹⁶ Town of Orchid, *Incorporation of the Town of Orchid*, <https://www.townoforchid.com/community/page/incorporation-town-orchid> (last visited Jan. 5, 2024).

¹⁷ Bureau of Economic and Business Research, *Florida Estimates of Populations 2023*, https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates_2023.pdf (last visited Jan. 5, 2024).

¹⁸ Town of Orchid, *Development of the Town*, <https://www.townoforchid.com/community/page/development-town> (last visited Jan. 5, 2024).

¹⁹ City of Orchid Ordinance No. 88-01 (Sept. 20, 1988).

²⁰ See Town of Orchid, *Development of the Town*, <https://www.townoforchid.com/community/page/development-town> (last visited Jan. 5, 2024); Town of Orchid, *Recent History*, <https://www.townoforchid.com/community/page/recent-history> (last visited Jan. 5, 2024).

²¹ Samantha Baita, *Site of Orchid's new Town Hall on island seen ideal fit*, Vero News (Oct. 5, 2023), <https://veronews.com/2023/10/05/site-of-orchids-new-town-hall-on-island-seen-ideal-fit/> (last visited Jan. 5, 2024).

²² Economic Impact Statement for HB 191 (2024).

WHERE? The *Indian River Press Journal*, a daily newspaper of general circulation published in Indian River County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the Town of Orchid, Indian River
 3 County; providing legislative intent; providing an
 4 exception to general law; authorizing the Town of
 5 Orchid in Indian River County to hold public meetings
 6 within specified mileage of its jurisdictional
 7 boundary under certain circumstances; providing an
 8 effective date.

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

11
 12 Section 1. (1) The Legislature finds that the Town of
 13 Orchid in Indian River County currently owns no public meeting
 14 facilities within its jurisdiction and has no reasonable
 15 prospects for doing so in the future.

16 (2) Notwithstanding s. 166.0213(1), Florida Statutes, the
 17 Town of Orchid in Indian River County may hold public meetings
 18 within 5 miles of its exterior jurisdictional boundary as long
 19 as its resident population does not exceed 1,250 persons.

20 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 351 Condemning the Emerging Partnership between the Chinese and Cuban Governments

SPONSOR(S): Porras

TIED BILLS: **IDEN./SIM. BILLS:** SM 318, SM 540

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
2) State Affairs Committee		Burgess	Williamson

SUMMARY ANALYSIS

Communism is a political ideology and form of government by which the state owns the major resources in a society, including property, production, education, agriculture, and transportation. Communist governments currently exist in China, Cuba, North Korea, Vietnam, and Laos.

The United States and Cuba have had a contentious relationship dating back to Fidel Castro's overthrow of the United States-backed Cuban government and the establishment of a communist state allied with the Soviet Union. In January 2021, the United States re-classified Cuba as a state sponsor of terrorism.

China and the United States have also had a complicated relationship since 1949, alternating between friction and collaboration on trade, climate change, and Taiwan. In the past decade, there has been a notable increase in Chinese espionage activity against the United States, including, in February 2023, when a spy balloon from the People's Republic of China was intercepted in South Carolina and destroyed.

Various news sources reported in June 2023 that China and Havana discussed setting up an electronic surveillance facility in Cuba, but it was unclear whether China and Cuba had a formal agreement in place for the base. In November 2023, the Countering Espionage and Surveillance Entities in Cuba Act was introduced in Congress with the purpose of imposing sanctions on any foreign person that has engaged in a significant transaction or provided material support to or for a Chinese military or intelligence facility in Cuba.

The memorial provides historical background about the relations between the United States, Cuba, and China. The memorial urges the United States Secretary of State to condemn the Chinese Government for establishing a spy base in Cuba, taking aggressive steps to collect information about the United States Government and its citizens, and establishing a potential base for Chinese troops in Cuba. The memorial directs the Secretary of State to provide copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review.

This memorial does not have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Communism

Karl Marx proposed his ideology of Communism in *The Communist Manifesto* in 1848.¹ Communism is a political ideology and form of government by which the state owns the major resources in a society, including property, production, education, agriculture, and transportation.² Communism seeks to eliminate the class system through redistribution of income³ and envisions a world without private property; all property is communally owned and each person receives a portion of the property based on what he or she needs.⁴ A strong, central government controls all aspects of economic production and provides citizens with food, housing, health care, and education.⁵

Communist regimes typically promise a utopian society in which the working class will enjoy unprecedented prosperity. However, communist regimes have historically been correlated with massive poverty and repression.⁶ Documented historical injustices by communist regimes include mass murder, repression, deprivations of freedoms, loss of property, and criminalization of ordinary economic activity.⁷

Communist governments currently exist in China, Cuba, North Korea, Vietnam, and Laos.⁸

Cuba

On January 1, 1959, Fidel Castro led an overthrow of the Batista regime and established a communist regime in Cuba.⁹ During Castro's tenure, Cuba established close military and economic ties with the Soviet Union.¹⁰ Following the collapse of the Soviet Union in 1991, the Cuban economy faltered as Soviet economic subsidies to Cuba ceased, and without Soviet support, Cuba fell into an economic crisis.¹¹ As a result, Cuba cultivated closer relations with China.¹²

Castro ruled Cuba until 2006, when he shifted power to his brother, Raul Castro,¹³ who maintained power until 2018 when another member of the Communist Party of Cuba, Miguel Diaz-Canel, succeeded him.¹⁴

¹ Britannica, *The Communist Manifesto*, <https://www.britannica.com/topic/The-Communist-Manifesto> (last visited Jan. 3, 2024).

² The University of North Carolina at Chapel Hill, Center for European Studies, *Communism: Karl Marx to Joseph Stalin*, <https://europe.unc.edu/iron-curtain/history/communism-karl-marx-to-joseph-stalin/> (last visited Jan. 3, 2024).

³ *Id.*

⁴ Sarah Pruitt, *How are Socialism and Communism Different?* (November 4, 2020), <https://www.history.com/news/socialism-communism-differences> (last visited Jan. 3, 2024).

⁵ *Id.*

⁶ Ilya Somin, *Lessons from a Century of Communism*, Wash. Post., Nov. 7, 2017, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/11/07/lessons-from-a-century-of-communism/> (last visited Jan. 3, 2024).

⁷ *Id.*

⁸ Sarah Pruitt, *How are Socialism and Communism Different?* (November 4, 2020), <https://www.history.com/news/socialism-communism-differences> (last visited Jan. 3, 2024).

⁹ History, *Communism Timeline* (July 9, 2019), <https://www.history.com/topics/russia/communism-timeline> (last visited Jan. 3, 2024).

¹⁰ *Fidel Castro Biography*, <https://www.biography.com/dictator/fidel-castro> (last visited Jan. 3, 2024).

¹¹ One World Nations Online, *History of Cuba*, <https://www.nationsonline.org/oneworld/History/Cuba-history.htm> (last visited Jan. 3, 2024).

¹² See Jaime Suchlicki, *Those Men in Havana Are Now Chinese*, The Wall Street Journal (July 30, 1999), A19, available at https://www.fpparchive.org/media/documents/communism_and_responses/Those%20Men%20in%20Havana%20Are%20Now%20Chinese_Jaime%20Suchlicki_July%2030,%201999_The%20Wall%20Street%20Journal.pdf (last visited Jan. 14, 2024).

¹³ *Fidel Castro Biography*, <https://www.biography.com/dictator/fidel-castro> (last visited Jan. 3, 2024).

¹⁴ BBC News, *Cuba's Raúl Castro hands over power to Miguel Díaz-Canel* (Apr. 19, 2018), <https://www.bbc.com/news/world-latin-america-43823287> (last visited Jan. 3, 2024).

In February 2019, a newly ratified constitution codified that Cuba continues to be a one-party system in which the Communist Party is the only legal political party.¹⁵

The United States and Cuba

The United States and Cuba have had a contentious relationship dating to Fidel Castro's overthrow of the United States-backed Cuban government and establishment of a communist state allied with the Soviet Union.¹⁶ Following Fidel Castro's revolution, nationalization of American-owned properties, and Cuba's growing trade relationship with the Soviet Union, the United States government imposed economic penalties and instituted a ban on United States exports to Cuba. On January 3, 1961, the United States severed diplomatic ties with Cuba.

In more recent years, the United States has shown continued support for the embargo against and strict disapproval of Castro's Cuba. In 1992, President George H.W. Bush signed into law the Cuban Democracy Act of 1992, which stated Cuba had repeatedly demonstrated consistent disregard for internationally-accepted standards of human rights and democratic values.¹⁷ Showing continued support of the embargo between the United States and Cuba, President Bill Clinton signed the Cuban Liberty and Solidarity Act of 1996 into law.¹⁸ On December 17, 2014, under President Barack Obama, trade restrictions and sanctions were lessened with the President's Presidential Policy Directive on United States-Cuba Normalization.¹⁹ However, President Donald Trump reversed President Obama's directive and re-classified Cuba as a state sponsor of terrorism on January 12, 2021.²⁰ Secretary of State Mike Pompeo cited Cuba's repeated provision of support for acts of international terrorism by harboring United States fugitives and Colombian rebel leaders as well as Cuba's support for Venezuelan President Nicolas Maduro.²¹

China

On October 1, 1949, Chinese Communist leader Mao Zedong declared the creation of the People's Republic of China (PRC), which ended the civil war between the Chinese Communist Party (CCP) and the Nationalist Party. China's mainland ties to communism led the United States to suspend diplomatic ties with the PRC for decades. For more than 20 years after the Chinese revolution of 1949, there were few contacts, limited trade, and no diplomatic ties between the two countries. Until the 1970s, the United States continued to recognize the Republic of China, located on Taiwan, as China's true government and supported that government's holding the Chinese seat in the United Nations.²²

Despite market reforms in the late 1970s, the modern Chinese state remains a communist system.²³ In 2012, Xi Jinping consolidated his control over the CCP and in early 2018, China's constitution was amended to abolish presidential term limits, allowing Xi to remain in office indefinitely.²⁴

¹⁵ U.S. Dept. of State, *Cuba - United States Department of State*, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/cuba/> (last visited Jan. 3, 2024).

¹⁶ Council on Foreign Relations, *U.S.-Cuba Relations* (July 13, 2021), <https://www.cfr.org/backgrounder/us-cuba-relations> (last visited Jan. 3, 2024).

¹⁷ Cuban Democracy Act of 1992, Pub. L. No. 102-484, H.R. 5323, 102nd Cong. (September 24, 1992), <https://www.congress.gov/bill/102nd-congress/house-bill/5323> (last visited Jan. 3, 2024).

¹⁸ Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Pub. L. No. 104-114, H.R. 927, 104th Cong. (March 12, 1996), <https://www.congress.gov/bill/104th-congress/house-bill/927> (last visited Jan. 3, 2024).

¹⁹ Presidential Policy Directive: United States-Cuba Normalization (October 14, 2016), <https://obamawhitehouse.archives.gov/the-press-office/2016/10/14/presidential-policy-directive-united-states-cuba-normalization> (last visited Jan. 3, 2024).

²⁰ U.S. Dept. of State, *State Sponsors of Terrorism*, <https://www.state.gov/state-sponsors-of-terrorism/> (last visited Jan. 3, 2024).

²¹ Matt Spetalnick, *Trump Returns Cuba to U.S. List of State Sponsors of Terrorism*, Reuters, Jan. 11, 2021, <https://www.reuters.com/article/us-usa-cuba-terrorism-list/trump-returns-cuba-to-u-s-list-of-state-sponsors-of-terrorism-idUSKBN29G1Y9> (last visited Jan. 3, 2024).

²² U.S. Dept. of State, Office of the Historian, *The Chinese Revolution of 1949*, <https://history.state.gov/milestones/1945-1952/chinese-rev> (last visited Jan. 3, 2024).

²³ Council on Foreign Relations, *The Chinese Communist Party*, <https://www.cfr.org/backgrounder/chinese-communist-party> (last visited Jan. 3, 2024).

²⁴ *China anniversary: How the Communist Party runs the country*, BBC (October 5, 2022), <https://www.bbc.com/news/world-asia-china-49631120> (last visited Jan. 3, 2024). See also Tom Phillips, *Xi Jinping's power play: from president to China's new dictator?*, The Guardian, <https://www.theguardian.com/world/2018/mar/04/xi-jinping-from-president-to-china-new-dictator> (last visited Jan. 3, 2024).

China and the United States have had a complicated relationship alternating between friction and collaboration on trade, climate change, and Taiwan. However, in 1979, the United States recognized the PRC and established diplomatic relations with it as the sole legitimate government of China and subsequently opened an Embassy in Beijing.²⁵

In recent years, there has been a notable increase in Chinese espionage activity against the United States. In May 2014, a United States court indicted five Chinese hackers, allegedly with ties to China's People's Liberation Army, on charges of stealing trade technology from United States companies. In response, Beijing suspended its cooperation in the U.S.-China cybersecurity working group. In June 2015, United States authorities signaled there was evidence Chinese hackers were behind the major online breach of the Office of Personnel Management and the theft of data from 22 million current and former federal employees. Ahead of the Shangri-La Dialogue conference in May 2015, United States officials stated that images from United States naval surveillance provided evidence that China was placing military equipment on a chain of artificial islands.²⁶

In January 2020, President Trump and Chinese Vice Premier Liu He signed the Phase One Agreement, which required structural reforms and other changes to China's economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange.²⁷

In November 2022, President Biden and China's President Xi met to ease tensions and reopen communication channels, including climate talks. Not long after, however, a PRC spy balloon was intercepted in South Carolina and destroyed. As a result, Secretary of State Antony Blinken postponed his trip to China.²⁸

China and Cuba

In June 2023, various news sources reported that China held discussions with Havana about setting up an electronic surveillance facility in Cuba, but it was unclear whether China and Cuba had a formal agreement in place for the base.²⁹ National Security Council spokesman John Kirby and Cuban Deputy Foreign Minister Carlos Fernandez de Cossio denied these reports.³⁰ United States Senators Jim Risch, John Barrasso, Bill Hagerty, Pete Ricketts, and Ted Cruz introduced the Countering Espionage and Surveillance Entities in Cuba (CEASE) Act in November 2023. The purpose of the CEASE Act is to impose sanctions on any foreign person that has engaged in a significant transaction or provided material support to or for a Chinese military or intelligence facility in Cuba.³¹

Effect of the Memorial

The memorial provides historical background about relations between the United States, Cuba, and China.

²⁵Council on Foreign Relations, *U.S.-China Relations 1949-2023*, <https://www.cfr.org/timeline/us-china-relations> (last visited Jan. 3, 2024).

²⁶*Id.*

²⁷U.S. Dept. of Agriculture, Foreign Agricultural Service, *China Phase One Agreement*, <https://fas.usda.gov/topics/china-phase-one-agreement#:~:text=In%202020%2C%20the%20United%20States,services%2C%20and%20currency%20and%20foreign> (last visited Jan. 3, 2024).

²⁸Michael Sobolik, *Preparing for the Next Spy Balloon*, American Foreign Policy Council (Feb. 15, 2023), <https://www.afpc.org/publications/articles/preparing-for-the-next-spy-balloon> (last visited Jan. 3, 2024).

²⁹Dan De Luce, Abigail Williams and Andrea Mitchell, *Is the Biden administration downplaying China's plans for an eavesdropping post in Cuba?*, NBC News (June 10, 2023), <https://www.nbcnews.com/politics/national-security/biden-administration-turning-blind-eye-chinese-provocations-rcna88347> (last visited Jan. 3, 2024).

³⁰Natasha Bertrand, *Cuba gives China permission to build spying facility on island, US intel says*, CNN (June 9, 2023), <https://www.cnn.com/2023/06/08/politics/cuba-china-spying-facility/index.html> (last visited Jan. 3, 2024).

³¹CEASE Act, s. 3225, 118th Cong. (Nov. 2, 2023).

The memorial urges the United States Secretary of State to condemn the Chinese Government for establishing a spy base in Cuba, taking aggressive steps to collect information about the United States Government and its citizens, and establishing a potential base for Chinese troops in Cuba.

The memorial calls for copies of the memorial to be dispatched by the Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

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 memorial does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The memorial neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

House Memorial

A memorial to the United States Secretary of State urging the secretary to condemn the emerging partnership between the Chinese and Cuban Governments and the establishment of Chinese espionage and military capabilities in Cuba.

WHEREAS, relations between Cuba and the United States of America have a turbulent past, from the Spanish-American War to Fidel Castro's rise to power and the Cold War and its aftermath, and

WHEREAS, relations between China and the United States have reached a crossroads, as the United States has stepped up efforts to thwart the expansion of Chinese intelligence-gathering operations, and

WHEREAS, on February 4, 2023, the United States military successfully shot down a Chinese spy balloon off the coast of South Carolina, and

WHEREAS, the United States military believes that the balloon was used to intercept electronic signals and to monitor sensitive military sites, and

WHEREAS, on June 8, 2023, *The Wall Street Journal* reported that China and Cuba have reached an agreement, in principle, to build an electronic eavesdropping station in Cuba which would result in Cuba's receipt of billions of dollars from China,

26 | although this report has been refuted by the White House, the
 27 | Cuban Government, and the Chinese Government, and

28 | WHEREAS, several days later, an unnamed administration
 29 | official confirmed that, since 2019, China has been operating a
 30 | spy base in Cuba as part of a global effort to upgrade its
 31 | intelligence-gathering capabilities, and

32 | WHEREAS, Cuba has a history of opening its doors to nations
 33 | that are adversarial to the United States in order to undermine
 34 | our country's interests, and

35 | WHEREAS, China's willingness to embrace and partner with
 36 | the Cuban Government, which has historically engaged in
 37 | espionage against the United States, should be a cause for
 38 | concern, and

39 | WHEREAS, as global tensions have increased, the Chinese
 40 | Government has sought to build up its military and enhance its
 41 | technological capability to collect and analyze signals
 42 | intelligence, and

43 | WHEREAS, Dr. Evan Ellis, a Latin American Studies research
 44 | professor at the United States Army War College, has stated that
 45 | the establishment of a spy base "accelerates the level of
 46 | tactical and operational coordination between China and Cuba
 47 | that can be used in times of war," and

48 | WHEREAS, efforts to foster a partnership between China and
 49 | Cuba should be condemned in light of Cuba's history of
 50 | antagonistic behavior toward the United States as well as the

HM 351

2024

51 Chinese Government's willingness to embrace partners that oppose
 52 democracy, NOW, THEREFORE,

53
 54 Be It Resolved by the Legislature of the State of Florida:

55
 56 That the United States Secretary of State is urged to
 57 condemn the Chinese Government for establishing a spy base in
 58 Cuba.

59 BE IT FURTHER RESOLVED that the United States Secretary of
 60 State is urged to condemn the Chinese Government for taking
 61 increasingly aggressive steps to collect sensitive information
 62 regarding the United States Government and its citizens.

63 BE IT FURTHER RESOLVED that the United States Secretary of
 64 State is urged to condemn the Chinese Government for
 65 establishing a potential base for Chinese troops a mere 90 miles
 66 from the United States, a hostile action that threatens our
 67 national security.

68 BE IT FURTHER RESOLVED that the Secretary of State dispatch
 69 copies of this memorial to the President of the United States,
 70 the President of the United States Senate, the Speaker of the
 71 United States House of Representatives, the United States
 72 Secretary of State, and each member of the Florida delegation to
 73 the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 357 Special Observances
SPONSOR(S): Holcomb and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 346

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	13 Y, 0 N	Poreda	Miller
2) State Affairs Committee		Poreda	Williamson

SUMMARY ANALYSIS

Florida Law provides designations for legal holidays and special observances. Recognition of a legal holiday or special observance could apply statewide or may be limited to a particular region of the state. Some holidays or special observances may also require a commemoration or observance of the day, week, or month.

Florida currently recognizes “Veterans’ Day” as a legal holiday that is celebrated annually on November 11, and in 2023, the Legislature established “Veterans Week” as a special observance.

The bill designates the month of November as “Veteran Appreciation Month.” The Governor may issue an annual proclamation designating the month of November as “Veteran Appreciation Month” and encouraging counties, municipalities, public schools, and Florida residents to observe the occasion by creating special programs and events to show appreciation for the veterans who have served the United States.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Legal Holidays and Special Observances

Florida law designates a number of legal holidays and special observances.¹ Recognition of a legal holiday or special observance may apply statewide or may be limited to a particular region. For example, “Gasparilla Day”² is a legal holiday observed only in Hillsborough County, while “Bill of Rights Day”³ applies throughout the state.

Depending on the holiday or special observance, certain actions may be required to be performed for the commemoration or observance of the date, day, or month. For example, April 2 is designated as “Florida State Day” which is to be known as “Pascua Florida Day,”⁴ regardless of whether the Governor issues a proclamation. However, the Governor is required to proclaim September 11 as “9/11 Hero’s Day” and public schools must observe such day.⁵

Florida law currently recognizes 21 legal holidays⁶ and 38 special observances.⁷ The state also recognizes nine paid holidays that are observed by all state branches and agencies.⁸

Veterans Recognition

“Veterans’ Day” is a legal holiday that is celebrated annually on November 11.⁹ In 2023, “Veterans Week” was established by the Legislature as a special observance, which begins on the Sunday preceding November 11 of each year.¹⁰ However, if November 11 is on a Sunday, then Veterans Week begins on that day.¹¹

Veterans in Florida

Each year, about 250,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.¹² Florida is home to 20 major military installations¹³ and

¹ See ch. 683, F.S.

² S. 683.08, F.S.

³ S. 683.25, F.S.

⁴ S. 683.06(1), F.S.

⁵ S. 683.335(1), F.S.

⁶ S. 683.01, F.S. The legal holidays that are also public holidays are Sunday, the first day of each week; New Year’s Day, January 1; Birthday of Martin Luther King, Jr., January 15; Birthday of Robert E. Lee, January 19; Lincoln’s Birthday, February 12; Susan B. Anthony’s Birthday, February 15; Washington’s Birthday, the third Monday in February; Good Friday; Pascua Florida Day, April 2; Confederate Memorial Day, April 26; Memorial Day, the last Monday in May; Birthday of Jefferson Davis, June 3; Flag Day, June 14; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day and Farmers’ Day, the second Monday in October; Veterans’ Day, November 11; General Election Day; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25; and Shrove Tuesday, sometimes also known as “Mardi Gras,” in counties where carnival associations are organized for the purpose of celebrating the same.

⁷ See ss. 683.04 - 683.335, F.S.

⁸ S. 110.117(1), F.S. Paid state holidays include New Year’s Day, the Birthday of Martin Luther King, Jr., Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

⁹ S. 683.01(1)(q), F.S.

¹⁰ S. 683.1475, F.S.

¹¹ *Id.*

¹² U.S. Department of Veterans Affairs, *Your VA Transition Assistance Program (TAP)*, available at <https://www.benefits.va.gov/transition/tap.asp> (last visited December 19, 2023).

¹³ Florida Department of Commerce, *Military Bases – Military Base Encroachment*, available at <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/military-base-encroachment> (last visited December 19, 2023).

65,159 active duty military personnel with 37,833 more in the National Guard or in reserve.¹⁴ Florida is also home to the nation's third-largest veteran population with 1,430,000 veterans.¹⁵

Effect of the Bill

The bill designates the month of November each year as "Veteran Appreciation Month."

The Governor may issue a proclamation annually designating the month of November as "Veteran Appreciation Month" and encouraging counties, municipalities, public schools, and Florida residents to observe the occasion by creating special programs and events to show appreciation for the veterans who have served the United States.

B. SECTION DIRECTORY:

Section 1. Creates s. 683.336, F.S., relating to Veteran Appreciation Month.

Section 2. Provides an effective date of July 1, 2024.

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 action requiring the expenditure of funds; reduce the authority that counties or municipalities have to

¹⁴ Department of Defense, Defense Manpower Data Center (DMDC), *DoD Personnel, Workforce Reports & Publications - Military and Civilian Personnel by Service/Agency by State/Country (September 2023)*, available at <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports> (last visited December 19, 2023)

¹⁵ Florida Department of Veterans Affairs. *Fast Facts*, available at <https://www.floridavets.org/our-veterans/profilefast-facts/> (last visited December 19, 2023).

raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to special observances; creating s.
 3 683.336, F.S.; designating each November as "Veteran
 4 Appreciation Month"; authorizing the Governor to issue
 5 a proclamation with specified information; providing
 6 an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 683.336, Florida Statutes, is created
 11 to read:

12 683.336 Veteran Appreciation Month.—

13 (1) The month of November of each year is designated as
 14 "Veteran Appreciation Month."

15 (2) The Governor may issue a proclamation annually
 16 designating the month of November as "Veteran Appreciation
 17 Month" and encouraging counties, municipalities, public schools,
 18 and residents of this state to observe the occasion by creating
 19 special programs and events to show appreciation for the
 20 veterans who have served the United States.

21 Section 2. This act shall take effect July 1, 2024.

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		

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Holcomb offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 683.1475, Florida Statutes, is amended to read:

683.1475 Veterans Appreciation Month ~~Week~~.—

(1) The month of November of each year is designated as "Veterans Appreciation Month." ~~week beginning with the Sunday preceding November 11 of each year is designated as "Veterans Week." If November 11 falls on a Sunday, "Veterans Week" begins on that day.~~

(2) The Governor may ~~annually~~ issue a proclamation annually designating the month ~~week~~ of November ~~11~~ as Veterans Appreciation Month ~~Week~~ and encouraging counties,

Amendment No.

17 municipalities, public schools, and residents of this state to
18 observe the occasion by creating special programs and events to
19 show appreciation for the veterans who have served ~~calling upon~~
20 ~~public officials, schools, private organizations, and all~~
21 ~~residents of the state to commemorate Veterans Week and honor~~
22 ~~the men and women who answered the call during times of war and~~
23 ~~peace to protect and preserve the treasured freedom of all~~
24 ~~citizens of the United States.~~

25 Section 2. This act shall take effect July 1, 2024.

26
27 -----
28 **T I T L E A M E N D M E N T**

29 Remove everything before the enacting clause and insert:
30 An act relating to special observances; amending s. 683.1475,
31 F.S.; designating each November as "Veterans Appreciation
32 Month"; authorizing the Governor to issue a proclamation with
33 specified information; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1377 Pub. Rec./Investigations by the Department of Legal Affairs

SPONSOR(S): Sirois

TIED BILLS: HB 1 **IDEN./SIM. BILLS:** SB 1790

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N	Wright	Anstead
2) State Affairs Committee		Skinner	Williamson

SUMMARY ANALYSIS

Generally, a social media platform is a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities. Social media use by children can have negative effects on their wellbeing, and studies have found a link between child social media use and poor mental health.

To attempt to reduce such effects on kids, Utah, Arkansas, Louisiana, and Ohio recently enacted laws to require social media platforms to verify user age and require parental consent for minors to have an account.

HB 1, to which this bill is linked, requires social media platforms to:

- Verify the age of a person wishing to open a new account;
- Prohibit minors under 16 years of age from creating a new account; and
- Implement certain Internet safety measures for minors under 18 years of age.

The Department of Legal Affairs (DLA), upon belief that any social media platform is in violation of the provisions of HB 1, may bring an action under the Florida Deceptive and Unfair Trade Practices Act. A private cause of action is permitted in certain limited circumstances.

This bill provides that all information received by DLA pursuant to a notification or investigation by DLA or a law enforcement agency of a violation is confidential and exempt from public record requirements. The bill provides that the information may be released by DLA during an active investigation only:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast to notify the public of a data breach; or
- To another governmental entity in the furtherance of the receiving entity's official duties and responsibilities.

Once an investigation is completed, the following information remains confidential and exempt:

- All information to which another public record exemption applies;
- Personal information;
- A computer forensic report;
- Information that would otherwise reveal weaknesses in data security; and
- Information that would otherwise disclose proprietary information.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. It also includes a statement of public necessity 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 exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹ The Legislature, however, may provide by general law an exemption² from public record requirements provided the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.³

Current law also addresses the public policy regarding access to government records by guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.⁴ Furthermore, the Open Government Sunset Review (OGSR) Act⁵ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and that cannot be accomplished without the exemption."⁶ An identifiable public purpose is served if the exemption meets 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; or
- Protect trade or business secrets.⁷

Pursuant to the OGSR Act, a new public record exemption, or the substantial amendment of an existing public record exemption, is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.⁸

Social Media and Kids

Generally, a social media platform is a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities. Social media is Internet-based and gives users quick electronic communication of content, such as personal information, videos, and photos. Users engage with social media via a computer, tablet, or smartphone via web-based software or applications.⁹

¹ Art. I, s. 24(a), Fla. Const.

² A "public record exemption" means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. *See* s. 119.011(8), F.S.

³ Art. I, s. 24(c), Fla. Const.

⁴ *See* s. 119.01, F.S.

⁵ S. 119.15, F.S.

⁶ S. 119.15(6)(b), F.S.

⁷ *Id.*

⁸ S. 119.15(3), F.S.

⁹ Maya Dollarhide, *Social Media: Definition, Effects, and List of Top Apps*, Investopedia.com,

<https://www.investopedia.com/terms/s/social-media.asp> (last visited Jan. 12, 2024).

Social media use by children can have negative effects on their health.¹⁰ Some potential safety risks of social media use include:

- Exposure to harmful or inappropriate content;
- Exposure to dangerous people;
- Cyberbullying;
- Oversharing personal information;
- Exposure to excessive advertisements;
- Privacy concerns, including the collection of data about minors;
- Identity theft or being hacked; and
- Interference with sleep, exercise, homework, or family activities.¹¹

Additionally, a 2022 study conducted by social media and psychology scholars found a link between social media use and poor mental health, especially among girls.¹² Such study demonstrated that girls experience a consistent and substantial association between mental health and social media use, and such associations were stronger than links between mental health and binge drinking, sexual assault, obesity, and hard drug use.¹³

To attempt to reduce such effects on kids, Utah, Arkansas, Louisiana, and Ohio recently enacted laws to require social media platforms to verify user age and require parental consent for minors to have an account.¹⁴

Department of Legal Affairs

The Department of Legal Affairs (DLA) provides a wide variety of legal services, including defending the state in civil litigation cases, representing the people of Florida in criminal appeals in state and federal courts, protecting rights of children, consumers, and victims through its various protection programs, and investigating and litigating against businesses that seek to limit competition and defraud taxpayers.¹⁵

House Bill 1 (2024)

HB 1, to which this bill is linked, requires social media platforms to:

- Verify the age of a person wishing to open a new account;
- Prohibit minors under 16 years of age from creating a new account; and
- Implement certain Internet safety measures for minors under 18 years of age.

¹⁰ Mayo Clinic Staff, *Teens and social media use: What's the impact?*, Mayo Foundation for Medical Education and Research, <https://www.mayoclinic.org/healthy-lifestyle/tween-and-teen-health/in-depth/teens-and-social-media-use/art-20474437> (last visited Jan. 12, 2024).

¹¹ American Academy of Child and Adolescent Psychiatry, *Social Media and Teens*, March 2018, https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Social-Media-and-Teens-100.aspx (last visited Jan. 12, 2024); see also Loyola Medicine, *Social Media Safety for Kids and Teens*, <https://www.loyolamedicine.org/about-us/blog/social-media-safety-kids-teens>, (last visited Jan. 12, 2024)

¹² Jean Twenge, Jonathan Haidt, Jimmy Lozano, and Kevin Cummins, *Specification curve analysis shows that social media use is linked to poor mental health, especially among girls*, 224 *Acta Psychologica*, (April 2022), <https://www.sciencedirect.com/science/article/pii/S0001691822000270> (last visited Jan. 12, 2024); Jean Twenge, et al, *infra* note 12.

¹³ *Id.*; see also Jean Twenge, et al, *Social media is riskier for kids than 'screen time'*, *The Washington Post*, Feb. 16, 2022, <https://www.washingtonpost.com/opinions/2022/02/16/social-media-is-riskier-kids-than-screen-time/> (last visited Jan. 12, 2024).

¹⁴ Ch. 498, Laws of Utah 2023; Act No. 456, 2023 La. Acts; 2023 Ark. Acts 689; Ohio House Bill 33 - 135th General Assembly.

¹⁵ OPPAGA, Office of the Attorney General (Department of Legal Affairs), <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1026> (last visited Jan. 12, 2024); see also ch. 16 and s. 20.11, F.S.

DLA, upon belief that a social media platform is in violation of the bill, may bring an action under the Florida Deceptive and Unfair Trade Practices Act.¹⁶ A private cause of action is permitted in certain limited circumstances.

Effect of Proposed Changes

The bill creates a public record exemption for all information received by DLA pursuant to a notification or an investigation by DLA or a law enforcement agency of a violation by a social media platform of the requirements created by HB 1. Such information is made confidential and exempt¹⁷ from public record requirements until the investigation is completed or is no longer active.¹⁸

During an active investigation, the confidential and exempt information may be disclosed by DLA:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if DLA determines that such release would assist in notifying the public or locating or identifying a person DLA believes to be a victim of a data breach or improper use or disposal of customer records, except that information which remains confidential and exempt after an investigation may not be released in this manner; or
- To another governmental entity in the furtherance of the receiving entity's official duties and responsibilities.

Once an investigation is completed or ceases to be active, the following information received by DLA remains confidential and exempt:

- All information to which another public record exemption applies;
- Personal information;
- A computer forensic report;
- Information that would otherwise reveal weaknesses in a social media platform's data security; and
- Information that would otherwise disclose a social media platform's proprietary information.¹⁹

The bill provides the constitutionally required public necessity statement, which states that, if released, information received by DLA pursuant to a notification or an investigation by DLA or a law enforcement agency could:

- Frustrate or thwart the investigation and impair the ability of DLA to perform assigned functions;
- Undo a specific statutory exemption protecting the information;
- Be used for the purpose of identity theft;
- Result in the identification of vulnerabilities; and
- Result in economic harm.

¹⁶ Part II of Ch. 501, F.S. is known as the "Florida Deceptive and Unfair Trade Practices Act." S. 501.201, F.S. The Florida Deceptive and Unfair Trade Practices Act is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce. S. 501.202, F.S.

¹⁷ There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *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); *State v. Wooten*, 260 So.3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera 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 Op. Att'y Gen. Fla. 04-09 (2004).

¹⁸ The bill states that the public record exemption should be construed in conformity with s. 119.071(2)(c), F.S. Section 119.071(2)(c), F.S., creates an exemption for active criminal investigative and criminal intelligence information. Section 119.011(3), F.S., defines the terms "criminal intelligence information," "criminal investigative information," and "active."

¹⁹ The bill defines the term "proprietary information" to mean information that is owned or controlled by the social media platform; is intended to be private and is treated by the social media platform as private because disclosure would harm the social media platform or its business operations; has not been disclosed except as required by law or through a private agreement that provides that the information will not be released to the public; is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as received by DLA; and includes trade secrets, as defined in s. 688.002, F.S., and competitive interests.

The bill provides that the public record exemption is subject to the OGSR Act and will repeal on October 2, 2029, unless reenacted by the Legislature.

The bill will become effective on the same date that HB 1 or similar legislation takes effect, if such legislation is adopted in the same legislative session, or an extension thereof, and becomes a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 501.1736, F.S., as created by HB 1 (2024), to create a public record exemption for investigations related to s. 501.1736, F.S.

Section 2: Provides a public necessity statement as required by the Florida Constitution.

Section 3: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a minimal fiscal impact on DLA because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. DLA could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed by existing resources, 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 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 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 creates a public record exemption; thus, it includes a public necessity statement. The public necessity statement provides that, if released, information received by DLA pursuant to a notification or an investigation could frustrate or thwart the investigation and impair the ability of DLA to perform assigned functions, undo a specific statutory exemption protecting the information, be used for the purpose of identity theft, result in the identification of vulnerabilities, and result in economic harm.

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 creates a public record exemption for sensitive investigative materials and personal information, which does not appear to be broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking, nor does the bill confer or alter DLA's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 501.1736, F.S.; providing an exemption from public
 4 records requirements for information relating to
 5 investigations by the Department of Legal Affairs and
 6 law enforcement agencies of certain data privacy
 7 violations; providing a definition; providing for
 8 future legislative review and repeal of the exemption;
 9 providing a statement of public necessity; providing a
 10 contingent effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (8) of section 501.1736, Florida
 15 Statutes, as created by HB 1 or similar legislation, 2024
 16 Regular Session, is renumbered as subsection (9) and a new
 17 subsection (8) is added to that section to read:

18 501.1736 Social media use for minors.—

19 (8)(a) All information received by the department pursuant
 20 to a notification of a violation under this section, or received
 21 by the department pursuant to an investigation by the department
 22 or a law enforcement agency of a violation of this section, is
 23 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 24 of the State Constitution, until such time as the investigation
 25 is completed or ceases to be active. This exemption shall be

26 construed in conformity with s. 119.071(2) (c).

27 (b) During an active investigation, information made
28 confidential and exempt pursuant to paragraph (a) may be
29 disclosed by the department:

30 1. In the furtherance of its official duties and
31 responsibilities;

32 2. For print, publication, or broadcast if the department
33 determines that such release would assist in notifying the
34 public or locating or identifying a person that the department
35 believes to be a victim of a data breach or an improper use or
36 disposal of customer records, except that information made
37 confidential and exempt by paragraph (c) may not be released
38 pursuant to this subparagraph; or

39 3. To another governmental entity in the furtherance of
40 its official duties and responsibilities.

41 (c) Upon completion of an investigation or once an
42 investigation ceases to be active, the following information
43 received by the department shall remain confidential and exempt
44 from s. 119.07(1) and s. 24(a), Art. I of the State
45 Constitution:

46 1. All information to which another public records
47 exemption applies.

48 2. Personal information.

49 3. A computer forensic report.

50 4. Information that would otherwise reveal weaknesses in

51 the data security of a social media platform.

52 5. Information that would disclose the proprietary
 53 information of a social media platform.

54 (d) For purposes of this section, the term "proprietary
 55 information" means information that:

56 1. Is owned or controlled by the social media platform.

57 2. Is intended to be private and is treated by the social
 58 media platform as private because disclosure would harm the
 59 social media platform or its business operations.

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

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

66 5. Includes:

67 a. Trade secrets as defined in s. 688.002.

68 b. Competitive interests, the disclosure of which would
 69 impair the competitive advantage of the social media platform
 70 who is the subject of the information.

71 (e) This section is subject to the Open Government Sunset
 72 Review Act in accordance with s. 119.15 and shall stand repealed
 73 on October 2, 2029, unless reviewed and saved from repeal
 74 through reenactment by the Legislature.

75 Section 2. The Legislature finds that it is a public

76 necessity that all information received by the Department of
77 Legal Affairs pursuant to a notification of a violation of s.
78 501.1736, Florida Statutes, or received by the department
79 pursuant to an investigation by the department or a law
80 enforcement agency of a violation of that section, be made
81 confidential and exempt from s. 119.07(1), Florida Statutes, and
82 s. 24(a), Article I of the State Constitution for the following
83 reasons:

84 (1) A notification of a violation of s. 501.1736, Florida
85 Statutes, may result in an investigation of such violation. The
86 premature release of such information could frustrate or thwart
87 the investigation and impair the ability of the department to
88 effectively and efficiently administer s. 501.1736, Florida
89 Statutes. In addition, release of such information before
90 completion of an active investigation could jeopardize the
91 ongoing investigation.

92 (2) Release of information to which another public records
93 exemption applies once an investigation is completed or ceases
94 to be active would undo the specific statutory exemption
95 protecting that information.

96 (3) An investigation of a violation of s. 501.1736,
97 Florida Statutes, is likely to result in the gathering of
98 sensitive personal information, including identification
99 numbers, unique identifiers, professional or employment-related
100 information, and personal financial information. Such

101 information could be used for the purpose of identity theft. The
102 release of such information could subject possible victims of
103 data privacy violations to further harm.

104 (4) Notices received by the department and information
105 received during an investigation of a violation of s. 501.1736,
106 Florida Statutes, are likely to contain proprietary information.
107 Such information, including trade secrets, derives independent,
108 economic value, actual or potential, from being generally
109 unknown to, and not readily ascertainable by, other persons who
110 might obtain economic value from its disclosure or use. Allowing
111 public access to proprietary information, including a trade
112 secret, through a public records request could destroy the value
113 of the proprietary information and cause a financial loss to the
114 social media platform. Release of such information could give
115 business competitors an unfair advantage.

116 (5) Information received by the department may contain a
117 computer forensic report or information that could reveal
118 weaknesses in the data security of a social media platform. The
119 release of this information could result in the identification
120 of vulnerabilities in the cybersecurity system of the social
121 media platform and be used to harm the social media platform and
122 clients.

123 (6) The harm that may result from the release of
124 information received by the department pursuant to a
125 notification or investigation by the department or a law

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126 | enforcement agency of a violation of s. 501.1736, Florida
127 | Statutes, could impair the effective and efficient
128 | administration of the investigation and thus, outweighs the
129 | public benefit that may be derived from the disclosure of the
130 | information.

131 | Section 3. This act shall take effect on the same date
132 | that HB 1 or similar legislation takes effect, if such
133 | legislation is adopted in the same legislative session or an
134 | extension thereof and becomes a law.

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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		

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Sirois offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Subsection (8) of section 501.1736, Florida
 7 Statutes, as created by HB 1 or similar legislation, 2024
 8 Regular Session, is renumbered as subsection (9) and a new
 9 subsection (8) is added to that section to read:

501.1736 Social media use for minors.—

11 (8) (a) All information held by the department pursuant to
 12 a notification of a violation under this section or an
 13 investigation of a violation of this section is confidential and
 14 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 15 Constitution, until such time as the investigation is completed

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16 or ceases to be active. This exemption shall be construed in
17 conformity with s. 119.071(2)(c).

18 (b) During an active investigation, information made
19 confidential and exempt pursuant to paragraph (a) may be
20 disclosed by the department:

21 1. In the furtherance of its official duties and
22 responsibilities;

23 2. For print, publication, or broadcast if the department
24 determines that such release would assist in notifying the
25 public or locating or identifying a person that the department
26 believes to be a victim of an improper use or disposal of
27 customer records, except that information made confidential and
28 exempt by paragraph (c) may not be released pursuant to this
29 subparagraph; or

30 3. To another governmental entity in the furtherance of
31 its official duties and responsibilities.

32 (c) Upon completion of an investigation or once an
33 investigation ceases to be active, the following information
34 held by the department shall remain confidential and exempt from
35 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

36 1. Information that is otherwise confidential or exempt
37 from s. 119.07(1) and s. 24(a), Art. I of the State
38 Constitution.

39 2. Personal identifying information.

40 3. A computer forensic report.

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41 4. Information that would otherwise reveal weaknesses in
42 the data security of a social media platform.

43 5. Information that would disclose the proprietary
44 information of a social media platform.

45 (d) For purposes of this section, the term "proprietary
46 information" means information that:

47 1. Is owned or controlled by the social media platform.

48 2. Is intended to be private and is treated by the social
49 media platform as private because disclosure would harm the
50 social media platform or its business operations.

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

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

57 5. Reveals competitive interests, the disclosure of which
58 would impair the competitive advantage of the social media
59 platform who is the subject of the information.

60 (e) This subsection is subject to the Open Government
61 Sunset Review Act in accordance with s. 119.15 and shall stand
62 repealed on October 2, 2029, unless reviewed and saved from
63 repeal through reenactment by the Legislature.

64 Section 2. The Legislature finds that it is a public
65 necessity that all information held by the Department of Legal

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66 Affairs pursuant to a notification of a violation of s.
67 501.1736, Florida Statutes, or an investigation of a violation
68 of that section, be made confidential and exempt from s.
69 119.07(1), Florida Statutes, and s. 24(a), Article I of the
70 State Constitution for the following reasons:

71 (1) A notification of a violation of s. 501.1736, Florida
72 Statutes, may result in an investigation of such violation. The
73 premature release of such information could frustrate or thwart
74 the investigation and impair the ability of the department to
75 effectively and efficiently administer s. 501.1736, Florida
76 Statutes. In addition, release of such information before
77 completion of an active investigation could jeopardize the
78 ongoing investigation.

79 (2) Release of information that is otherwise confidential
80 or exempt from public record requirements once an investigation
81 is completed or ceases to be active would undo the specific
82 statutory exemption protecting that information; thus,
83 clarifying that any protections currently afforded to such
84 information are not removed.

85 (3) An investigation of a violation of s. 501.1736,
86 Florida Statutes, is likely to result in the gathering of
87 sensitive personal identifying information, which could include
88 identification numbers, unique identifiers, professional or
89 employment-related information, and personal financial
90 information. Such information could be used for the purpose of

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91 identity theft. The release of such information could subject
92 families to possible privacy violations, as it would reveal
93 information of a sensitive personal nature.

94 (4) Notices received by the department and information
95 generated during an investigation of a violation of s. 501.1736,
96 Florida Statutes, are likely to contain proprietary information.
97 Such information derives independent, economic value, actual or
98 potential, from being generally unknown to, and not readily
99 ascertainable by, other persons who might obtain economic value
100 from its disclosure or use. Allowing public access to
101 proprietary information through a public records request could
102 destroy the value of the proprietary information and cause a
103 financial loss to the social media platform. Release of such
104 information could give business competitors an unfair advantage.

105 (5) Information held by the department may contain a
106 computer forensic report or information that could reveal
107 weaknesses in the data security of a social media platform. The
108 release of this information could result in the identification
109 of vulnerabilities in the cybersecurity system of the social
110 media platform and be used to harm the social media platform and
111 clients.

112 (6) The harm that may result from the release of
113 information held by the department pursuant to a notification or
114 investigation of a violation of s. 501.1736, Florida Statutes,
115 could impair the effective and efficient administration of the

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116 investigation and thus, outweighs the public benefit that may be
117 derived from the disclosure of the information.

118 Section 3. This act shall take effect on the same date
119 that HB 1 or similar legislation takes effect, if such
120 legislation is adopted in the same legislative session or an
121 extension thereof and becomes a law.

122

123 -----

124

T I T L E A M E N D M E N T

125

Remove everything before the enacting clause and insert:

126

An act relating to public records; amending s. 501.1736, F.S.;

127

providing an exemption from public records requirements for

128

information relating to investigations by the Department of

129

Legal Affairs of social media platforms; providing for

130

exceptions to the exemption; providing a definition; providing

131

for future legislative review and repeal of the exemption;

132

providing a statement of public necessity; providing a

133

contingent effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1491 Pub. Rec./Investigations by the Department of Legal Affairs
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Tramont, Overdorf
TIED BILLS: HB 3 **IDEN./SIM. BILLS:** SB 1794

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N, As CS	Wright	Anstead
2) State Affairs Committee		Skinner	Williamson

SUMMARY ANALYSIS

Internet usage and mobile technology have become mainstream, especially among teens and young adults, which has expanded the creation and dissemination of pornography. The majority of Americans, including minors, are exposed to pornography online regularly, and 56 percent of American high school students have viewed pornography in the last year.

Adolescents who view pornography tend to report feeling insecure about their ability to perform sexually or the way they look, display more aggression, and view women as sex objects.

HB 3 (2024), to which this bill is linked, requires a commercial entity that knowingly and intentionally publishes or distributes a substantial portion of material harmful to minors on a website or application to prohibit access to such material by any person younger than 18 years of age; and use reasonable age verification methods to verify that the age of a person attempting to access the material is 18 years of age or older. The Department of Legal Affairs (DLA), upon belief that any commercial entity is in violation of the provisions of HB 3, may bring an action under the Florida Deceptive and Unfair Trade Practices Act. A private cause of action is permitted in certain limited circumstances.

This bill provides that all information received by DLA pursuant to a notification or investigation by DLA or a law enforcement agency of a violation is confidential and exempt from public record requirements. The bill provides that the information may be released by DLA during an active investigation only:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast to notify the public of a data breach; or
- To another governmental entity in the furtherance of the receiving entity's official duties and responsibilities.

Once an investigation is completed, the following information remains confidential and exempt:

- All information to which another public records exemption applies;
- Personal information;
- A computer forensic report;
- Information that would otherwise reveal weaknesses in data security; and
- Information that would otherwise disclose proprietary information.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. It also includes a statement of public necessity 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 exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹ The Legislature, however, may provide by general law an exemption² from public record requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.³

Current law also addresses the public policy regarding access to government records by guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.⁴ Furthermore, the Open Government Sunset Review (OGSR) Act⁵ provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁶ An identifiable public purpose is served if the exemption meets 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; or
- Protect trade or business secrets.⁷

Pursuant to the OGSR Act, a new public record exemption, or the substantial amendment of an existing public record exemption, is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.⁸

Effects of Harmful Content on Children

Internet usage and mobile technology has become mainstream, especially among teens and young adults.⁹ The majority of Americans come across pornography online and one-third will seek it out monthly.¹⁰ Twenty-seven percent of young adults first view pornography before the onset of puberty,¹¹

¹ Art. I, s. 24(a), Fla. Const.

² A "public record exemption" means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. *See* s. 119.011(8), F.S.

³ Art. I, s. 24(c), Fla. Const.

⁴ *See* s. 119.01, F.S.

⁵ S. 119.15, F.S.

⁶ S. 119.15(6)(b), F.S.

⁷ *Id.*

⁸ S. 119.15(3), F.S.

⁹ Eric W. Owens et al., *The Impact of Internet Pornography on Adolescents: A Review of the Research*, 19(1-2) SEXUAL ADDICTION & COMPULSIVITY 99, 99-100 (2012); *see also* PEW RESEARCH CENTER, *Teens, Social Media & Technology Overview 2015*, <http://www.pewinternet.org/2015/04/09/teens-social-media-technology-2015/> (last visited Jan. 12, 2024).

¹⁰ Josh McDowell Ministry, *THE PORN PHENOMENON: THE IMPACT OF PORNOGRAPHY IN THE DIGITAL AGE* (2016), research summary available at <https://www.barna.com/research/porn-in-the-digital-age-new-research-reveals-10-trends/> (last visited Jan. 12, 2024).

¹¹ Josh McDowell Ministry, *KEY FINDINGS FOR THE PORN PHENOMENON UNVEILED* (2016), press release available at <https://www.josh.org/news-release/key-findings-for-the-porn-phenomenon-unveiled/> (last visited Jan. 13, 2024).

70 percent of teens accidentally stumble upon pornography online,¹² and teens may have experienced an increase in unwanted exposure to pornographic content online.¹³ A sample of American high school students in 2021 found that 56 percent viewed pornography in the prior year.¹⁴

Research suggests that adolescents who view pornography tend to have more sexually permissive attitudes, have more sexual partners in their lifetime, and are more likely to engage in certain sexual acts.¹⁵ Similarly, adolescents who viewed pornography tended to display more aggression, have more traditional gender role attitudes, and view women as sex objects.¹⁶

Adolescents who view pornography report feeling insecure about their ability to perform sexually or how they look, and tend to decrease their pornography use as their self-confidence increases or they develop positive relationships with friends and family.¹⁷

To attempt to reduce such effects on kids, Utah, Arkansas, Louisiana, and Ohio recently enacted laws to require commercial entities that have a substantial amount of material harmful to minors on their website to verify user age and prohibit access to minors under 18.¹⁸

Department of Legal Affairs

The Department of Legal Affairs (DLA) provides a wide variety of legal services, including defending the state in civil litigation cases, representing the people of Florida in criminal appeals in state and federal courts, protecting rights of children, consumers, and victims through its various protection programs, and investigating and litigating against businesses that seek to limit competition and defraud taxpayers.¹⁹

House Bill 3 (2024)

HB 3, to which this bill is linked, requires commercial entities that knowingly and intentionally publish or distribute a substantial portion of material harmful to minors on a website or application to:

- Prohibit access to such material by any person younger than 18 years of age; and
- Use reasonable age verification methods to verify that the age of a person attempting to access the material is 18 years of age or older.

¹² KAISER FAMILY FOUNDATION, *Generation Rx.com: How Young People Use the Internet for Health Information*, December 2001, at 12, available at <https://www.kff.org/wp-content/uploads/2001/11/3202-genrx-report.pdf> (last visited Jan. 12, 2024).

¹³ Kimberly J. Mitchell et al., *Trends in Youth Reports of Sexual Solicitations, Harassment and Unwanted Exposure to Pornography on the Internet*, 40 JOURNAL OF ADOLESCENT HEALTH 116, 124 (2007), available at: <http://unh.edu/ccrc/pdf/CV135.pdf> (last visited Jan. 12, 2024).

¹⁴ Amanda Giordano, *What to Know About Adolescent Pornography Exposure*, Psychology Today, Feb. 27, 2022, <https://www.psychologytoday.com/us/blog/understanding-addiction/202202/what-know-about-adolescent-pornography-exposure> (last visited Jan. 12, 2024).

¹⁵ Debra K. Braun-Courville & Mary Rojas, *Exposure to Sexually Explicit Web Sites and Adolescent Sexual Attitudes and Behaviors*, 45(2) J ADOLESCENT HEALTH 153, 156-162 (2009). See also Jane D. Brown & Kelly L. L'Engle, *X-Rated: Sexual Attitudes and Behaviors Associated with U.S. Early Adolescents' Exposure to Sexually Explicit Media*, 36 COMM. RSCH. 129-151 (2009). Contra Marie-Therese Luder et al., *Associations between Online Pornography and Sexual Behavior among Adolescents: Myth or Reality?*, 40(5) ARCHIVES OF SEXUAL BEHAVIOR 1027-1035 (2011) (finding that pornography use had no association with early sexual imitation or risky sexual behaviors).

¹⁶ Eileen M. Alexy et al., *Pornography as a Risk Marker for an Aggressive Pattern of Behavior among Sexually Reactive Children and Adolescents*, 14(6) J AM. PSYCHIATRIC NURSES ASS'N 442, 450 (2009). See also Elisabet Haggstrom-Nordin et al., *Experiences of and Attitudes towards Pornography among a Group of Swedish High School Students*, 14 EURO. J CONTRACEPTION AND REPRODUCTIVE HEALTHCARE 277, 277-284 (2009).

¹⁷ Lotta Lofgren-Martenson & Sven-Axel Mansson, *Lust, Love, and Life: A Qualitative Study of Swedish Adolescents' Perceptions and Experiences with Pornography* 47 J SEX RSCH. 568, 575 (2010).

¹⁸ Ch. 498, Laws of Utah 2023; Act No. 456, 2023 La. Acts; 2023 Ark. Acts 689; Ohio House Bill 33 - 135th General Assembly.

¹⁹ OPPAGA, Office of the Attorney General (Department of Legal Affairs), <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1026> (last visited Jan. 12, 2024); see also ch. 16 and s. 20.11, F.S.

DLA, upon belief that any commercial entity is in violation of the provisions of HB 3, may bring an action under the Florida Deceptive and Unfair Trade Practices Act. A private cause of action is permitted in certain limited circumstances.

Effect of Proposed Changes

The bill creates a public record exemption for all information received by DLA pursuant to a notification or an investigation by DLA or a law enforcement agency of a violation by commercial entities of the requirements created by HB 3. Such information is made confidential and exempt²⁰ from public record requirements until the investigation is completed or is no longer active.²¹

During an active investigation, the confidential and exempt information may be disclosed by DLA:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if DLA determines that such release would assist in notifying the public or locating or identifying a person that DLA believes to be a victim of a data breach or improper use or disposal of customer records, except that information which remains confidential and exempt after an investigation may not be released in this manner; or
- To another governmental entity in the furtherance of the receiving entity's official duties and responsibilities.

Once an investigation is completed or ceases to be active, the following information received by DLA remains confidential and exempt:

- All information to which another public record exemption applies;
- Personal information;
- A computer forensic report;
- Information that would otherwise reveal weaknesses in a commercial entity's data security; and
- Information that would otherwise disclose a commercial entity's proprietary information.²²

The bill provides the constitutionally required public necessity statement, which states that, if released, information received by DLA pursuant to a notification or an investigation by DLA or a law enforcement agency could:

- Frustrate or thwart the investigation and impair the ability of DLA to perform assigned functions;
- Undo a specific statutory exemption protecting the information;
- Be used for the purpose of identity theft;
- Result in the identification of vulnerabilities; and
- Result in economic harm.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2029, unless reenacted by the Legislature.

²⁰ There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *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); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera 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 Op. Att'y Gen. Fla. 04-09 (2004).

²¹ The bill states that the public record exemption should be construed in conformity with s. 119.071(2)(c), F.S. Section 119.071(2)(c), F.S., creates an exemption for active criminal investigative and criminal intelligence information. Section 119.011(3), F.S., defines the terms "criminal intelligence information," "criminal investigative information," and "active."

²² The bill defines the term "proprietary information" to mean information that is owned or controlled by the commercial entity; is intended to be private and is treated by the commercial entity as private because disclosure would harm the commercial entity or its business operations; has not been disclosed except as required by law or through a private agreement that provides that the information will not be released to the public; is not publicly available or otherwise readily ascertainable through proper means from an other source in the same configuration as received by DLA; and includes trade secrets, as defined in s. 688.002, F.S., and competitive interests.

The bill will become effective on the same date that HB 3 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 501.1737, F.S., as created by HB 3 (2024), to create a public record exemption for investigations related to s. 501.1737, F.S.
- Section 2:** Provides a public necessity statement as required by the Florida Constitution.
- Section 3:** Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a minimal fiscal impact on DLA because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. DLA could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed by existing resources, 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 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 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 creates a public record exemption; thus, it includes a public necessity statement. The public necessity statement provides that, if released, information received by DLA pursuant to a notification or an investigation could frustrate or thwart the investigation and impair the ability of DLA to perform assigned functions, undo a specific statutory exemption protecting the information, be used for the purpose of identity theft, result in the identification of vulnerabilities, and result in economic harm.

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 creates a public record exemption for sensitive investigative materials and personal information, which does not appear to be broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking, nor does the bill confer or alter DLA's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 11, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute replaces "online platform" with "commercial entity" throughout the bill, to conform with the linked bill, HB 3.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 501.1737, F.S.; providing an exemption from public
 4 records requirements for information relating to
 5 investigations by the Department of Legal Affairs and
 6 law enforcement agencies of certain data privacy
 7 violations; providing a definition; providing for
 8 future legislative review and repeal of the exemption;
 9 providing a statement of public necessity; providing a
 10 contingent effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (8) of section 501.1737, Florida
 15 Statutes, as created by HB 3 or similar legislation, 2024
 16 Regular Session, is renumbered as subsection (9), and a new
 17 subsection (8) is added to that section, to read:

18 501.1737 Age verification for online access to materials
 19 harmful to minors.—

20 (8) (a) All information received by the department pursuant
 21 to a notification of a violation under this section, or received
 22 by the department pursuant to an investigation by the department
 23 or a law enforcement agency of a violation of this section, is
 24 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 25 of the State Constitution, until such time as the investigation

26 is completed or ceases to be active. This exemption shall be
27 construed in conformity with s. 119.071(2)(c).

28 (b) During an active investigation, information made
29 confidential and exempt pursuant to paragraph (a) may be
30 disclosed by the department:

31 1. In the furtherance of its official duties and
32 responsibilities;

33 2. For print, publication, or broadcast if the department
34 determines that such release would assist in notifying the
35 public or locating or identifying a person who the department
36 believes to be a victim of a data breach or an improper use or
37 disposal of customer records, except that information made
38 confidential and exempt by paragraph (c) may not be released
39 pursuant to this subparagraph; or

40 3. To another governmental entity in the furtherance of
41 its official duties and responsibilities.

42 (c) Upon completion of an investigation or once an
43 investigation ceases to be active, the following information
44 received by the department shall remain confidential and exempt
45 from s. 119.07(1) and s. 24(a), Art. I of the State
46 Constitution:

47 1. All information to which another public records
48 exemption applies.

49 2. Personal information.

50 3. A computer forensic report.

51 4. Information that would otherwise reveal weaknesses in
 52 the data security of the commercial entity.

53 5. Information that would disclose the proprietary
 54 information of the commercial entity.

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

57 1. Is owned or controlled by the commercial entity.

58 2. Is intended to be private and is treated by the
 59 commercial entity as private because disclosure would harm the
 60 commercial entity or its business operations.

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

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

67 5. Includes:

68 a. Trade secrets as defined in s. 688.002.

69 b. Competitive interests, the disclosure of which would
 70 impair the competitive advantage of the commercial entity who is
 71 the subject of the information.

72 (e) This subsection is subject to the Open Government
 73 Sunset Review Act in accordance with s. 119.15 and shall stand
 74 repealed on October 2, 2029, unless reviewed and saved from
 75 repeal through reenactment by the Legislature.

76 Section 2. The Legislature finds that it is a public
77 necessity that all information received by the Department of
78 Legal Affairs pursuant to a notification of a violation of s.
79 501.1737, Florida Statutes, or received by the department
80 pursuant to an investigation by the department or a law
81 enforcement agency of a violation of that section, be made
82 confidential and exempt from s. 119.07(1), Florida Statutes, and
83 s. 24(a), Article I of the State Constitution for the following
84 reasons:

85 (1) A notification of a violation of s. 501.1737, Florida
86 Statutes, may result in an investigation of such violation. The
87 premature release of such information could frustrate or thwart
88 the investigation and impair the ability of the department to
89 effectively and efficiently administer s. 501.1737, Florida
90 Statutes. In addition, release of such information before
91 completion of an active investigation could jeopardize the
92 ongoing investigation.

93 (2) Release of information to which another public records
94 exemption applies once an investigation is completed or ceases
95 to be active would undo the specific statutory exemption
96 protecting that information.

97 (3) An investigation of a violation of s. 501.1737,
98 Florida Statutes, is likely to result in the gathering of
99 sensitive personal information, including identification
100 numbers, unique identifiers, professional or employment-related

101 information, and personal financial information. Such
102 information could be used for the purpose of identity theft. The
103 release of such information could subject possible victims of
104 data privacy violations to further harm.

105 (4) Notices received by the department and information
106 received during an investigation of a violation of s. 501.1737,
107 Florida Statutes, are likely to contain proprietary information.
108 Such information, including trade secrets, derives independent,
109 economic value, actual or potential, from being generally
110 unknown to, and not readily ascertainable by, other persons who
111 might obtain economic value from its disclosure or use. Allowing
112 public access to proprietary information, including a trade
113 secret, through a public records request could destroy the value
114 of the proprietary information and cause a financial loss to the
115 commercial entity. Release of such information could give
116 business competitors an unfair advantage.

117 (5) Information received by the department may contain a
118 computer forensic report or information that could reveal
119 weaknesses in the data security of the commercial entity. The
120 release of this information could result in the identification
121 of vulnerabilities in the cybersecurity system of the commercial
122 entity and be used to harm the commercial entity and clients.

123 (6) The harm that may result from the release of
124 information received by the department pursuant to a
125 notification or investigation by the department or a law

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2024

126 | enforcement agency of a violation of s. 501.1737, Florida
127 | Statutes, could impair the effective and efficient
128 | administration of the investigation and thus, outweighs the
129 | public benefit that may be derived from the disclosure of the
130 | information.

131 | Section 3. This act shall take effect on the same date
132 | that HB 3 or similar legislation takes effect, if such
133 | legislation is adopted in the same legislative session or an
134 | extension thereof and becomes a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1491 (2024)

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative Tramont offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (8) of section 501.1737, Florida
7 Statutes, as created by HB 3 or similar legislation, 2024
8 Regular Session, is renumbered as subsection (9), and a new
9 subsection (8) is added to that section, to read:

10 501.1737 Age verification for online access to materials
11 harmful to minors.—

12 (8) (a) All information held by the department pursuant to
13 a notification of a violation under this section or r an
14 investigation of a violation of this section is confidential and
15 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
16 Constitution, until such time as the investigation is completed

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17 or ceases to be active. This exemption shall be construed in
18 conformity with s. 119.071(2)(c).

19 (b) During an active investigation, information made
20 confidential and exempt pursuant to paragraph (a) may be
21 disclosed by the department:

22 1. In the furtherance of its official duties and
23 responsibilities;

24 2. For print, publication, or broadcast if the department
25 determines that such release would assist in notifying the
26 public or locating or identifying a person who the department
27 believes to be a victim of an improper use or disposal of
28 customer records, except that information made confidential and
29 exempt by paragraph (c) may not be released pursuant to this
30 subparagraph; or

31 3. To another governmental entity in the furtherance of
32 its official duties and responsibilities.

33 (c) Upon completion of an investigation or once an
34 investigation ceases to be active, the following information
35 held by the department shall remain confidential and exempt from
36 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

37 1. Information that is otherwise confidential or exempt
38 from s. 119.07(1) or s. 24(a), Art. I of the State Constitution.

39 2. Personal identifying information.

40 3. A computer forensic report.

Amendment No.

41 4. Information that would otherwise reveal weaknesses in
42 the data security of the commercial entity.

43 5. Information that would disclose the proprietary
44 information of the commercial entity.

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

47 1. Is owned or controlled by the commercial entity.

48 2. Is intended to be private and is treated by the
49 commercial entity as private because disclosure would harm the
50 commercial entity or its business operations.

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

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

57 5. Reveals
58 competitive interests, the disclosure of which would impair the
59 competitive advantage of the commercial entity who is the
60 subject of the information.

61 (e) This subsection is subject to the Open Government
62 Sunset Review Act in accordance with s. 119.15 and shall stand
63 repealed on October 2, 2029, unless reviewed and saved from
64 repeal through reenactment by the Legislature.

Amendment No.

65 Section 2. The Legislature finds that it is a public
66 necessity that all information held by the Department of Legal
67 Affairs pursuant to a notification of a violation of s.
68 501.1737, Florida Statutes, or an investigation of a violation
69 of that section, be made confidential and exempt from s.
70 119.07(1), Florida Statutes, and s. 24(a), Article I of the
71 State Constitution for the following reasons:

72 (1) A notification of a violation of s. 501.1737, Florida
73 Statutes, may result in an investigation of such violation. The
74 premature release of such information could frustrate or thwart
75 the investigation and impair the ability of the department to
76 effectively and efficiently administer s. 501.1737, Florida
77 Statutes. In addition, release of such information before
78 completion of an active investigation could jeopardize the
79 ongoing investigation.

80 (2) Release of information that is otherwise confidential
81 or exempt from public record requirements once an investigation
82 is completed or ceases to be active would undo the specific
83 statutory exemption protecting that information; thus,
84 clarifying that any protections currently afforded to that
85 information are not removed.

86 (3) An investigation of a violation of s. 501.1737,
87 Florida Statutes, is likely to result in the gathering of
88 sensitive personal identifying information, which could include
89 identification numbers, unique identifiers, professional or

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90 employment-related information, and personal financial
91 information. Such information could be used for the purpose of
92 identity theft. The release of such information could subject
93 individuals to possible privacy violations, as it would reveal
94 information of a sensitive personal nature.

95 (4) Notices received by the department and information
96 generated during an investigation of a violation of s. 501.1737,
97 Florida Statutes, are likely to contain proprietary information.
98 Such information derives independent, economic value, actual or
99 potential, from being generally unknown to, and not readily
100 ascertainable by, other persons who might obtain economic value
101 from its disclosure or use. Allowing public access to
102 proprietary information through a public records request could
103 destroy the value of the proprietary information and cause a
104 financial loss to the commercial entity. Release of such
105 information could give business competitors an unfair advantage.

106 (5) Information held by the department may contain a
107 computer forensic report or information that could reveal
108 weaknesses in the data security of the commercial entity. The
109 release of this information could result in the identification
110 of vulnerabilities in the cybersecurity system of the commercial
111 entity and be used to harm the commercial entity and clients.

112 (6) The harm that may result from the release of
113 information held by the department pursuant to a notification or
114 investigation by the department of a violation of s. 501.1737,

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115 Florida Statutes, could impair the effective and efficient
116 administration of the investigation and thus, outweighs the
117 public benefit that may be derived from the disclosure of the
118 information.

119 Section 3. This act shall take effect on the same date
120 that HB 3 or similar legislation takes effect, if such
121 legislation is adopted in the same legislative session or an
122 extension thereof and becomes a law.

123

124 -----

125 **T I T L E A M E N D M E N T**

126 Remove everything before the enacting clause and insert:
127 An act relating to public records; amending s. 501.1737, F.S.;
128 providing an exemption from public records requirements for
129 information relating to investigations by the Department of
130 Legal Affairs of certain commercial entities; providing for
131 exceptions to the exemption; providing a definition; providing
132 for future legislative review and repeal of the exemption;
133 providing a statement of public necessity; providing a
134 contingent effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7003 PCB EEG 24-01 OGSR/Preregistered Voters
SPONSOR(S): Ethics, Elections & Open Government Subcommittee, Holcomb
TIED BILLS: IDEN./SIM. **BILLS:** SB 7010

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ethics, Elections & Open Government Subcommittee	12 Y, 0 N	Skinner	Toliver
1) State Affairs Committee		Skinner	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption 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.

The Florida Voter Registration Act delineates the qualifications and requirements necessary for a person to register to vote in Florida. The Department of State (DOS) must prescribe by rule a uniform statewide voter registration application designed to elicit certain information from the applicant.

The Florida Election Code allows a person who is 16 or 17-years-old to pre-register to vote and, if their application is complete, he or she may vote in any election occurring on or after that person's 18th birthday. In 2019, the Legislature created the public record exemption concerning all information of 16 or 17-year-old voter registration applicants who pre-register to vote.

Current law provides that the following voter registration information held by an agency and obtained for the purpose of voter registration is confidential and exempt from public record requirements:

- All declinations to register to vote.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver license number, and Florida identification number of a voter registration applicant or voter.
- All information concerning 16 or 17-year-old voter registration applicants who pre-register to vote.

In addition to the above information, the signature of a voter registration applicant or voter is also protected from copying requirements.

The bill saves from repeal the public record exemption for all information concerning 16 or 17-year-old voter registration applicants who pre-register to vote, which will repeal on October 2, 2024, if the bill does not become law. The bill also authorizes an agency to disclose confidential and exempt voter registration information to a governmental entity if it is necessary for such entity to perform its duties and responsibilities.

The bill does not appear to have a fiscal impact on 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 (OGSR 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.²

The OGSR 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.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴ 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, then a public necessity statement and a two-thirds vote for passage are not required.

Voter Registration and Pre-registration

The Florida Voter Registration Act⁵ delineates the qualifications and requirements necessary for a person to register to vote in Florida. In order to become a registered voter in Florida, a person must register pursuant to The Florida Election Code⁶ and must be at least 18 years of age,⁷ with one exception. Current law allows a person who is 16 or 17-years-old to pre-register to vote and, if his or her application is accepted and complete, the person may vote in any election occurring on or after his or her 18th birthday.⁸

The Department of State (DOS) must prescribe by rule a uniform statewide voter registration application⁹ designed to elicit the following information from the applicant:

- The applicant's name, date of birth, address of legal residence and mailing address, if different.
- E-mail address.
- County of legal residence.
- Race or ethnicity.
- State or country of birth.
- Sex.
- Party affiliation.

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ Part II, ch. 97, F.S.

⁶ Chapters 97-106, F.S., are cited as "The Florida Election Code." See s. 97.011, F.S.

⁷ Section 97.041(1)(a)1., F.S.

⁸ Section 97.041(1)(b), F.S.

⁹ Section 97.052(1), F.S.; see also r. 1S-2.040, F.A.C., incorporating form DS-DE 39 by reference.

- Whether the applicant needs assistance in voting.
- Name and address where last registered.
- Last four digits of the applicant's social security number.
- Florida driver license number or identification number.
- An indication, if applicable, that the applicant has not been issued a Florida driver license, a Florida identification card, or a social security number.
- Telephone number (optional).
- Signature of applicant under penalty for false swearing pursuant to law, by which the person subscribes to the oath and swears that the information contained in the registration application is true.
- Whether the application is being used for initial registration, to update a registration, or to request a replacement voter information card.
- Whether the applicant is a United States citizen.
- Whether the applicant has been convicted of a felony and, if convicted, has had his or her voting rights restored.
- Whether the applicant has been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored.¹⁰

The Florida Election Code requires DOS to adopt rules prescribing minimum standards for nonpartisan voter education,¹¹ which the department has since adopted through the rulemaking process.¹² Supervisors of elections (SOEs) are required to implement those standards and conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.¹³ The DOS rule requires each SOE to conduct an annual high school voter registration and education program at each public high school in the county to educate and reach eligible high school students concerning registering and pre-registering to vote.¹⁴ The program must be developed in cooperation with the SOE's local school board.¹⁵

Public Record Exemptions Related to Voter Information

Current law provides that certain voter registration information held by an agency¹⁶ is confidential and exempt¹⁷ from public record requirements.¹⁸ The following voter registration information is protected from disclosure:

- All declinations to register to vote.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver license number, and Florida identification number of a voter registration applicant or voter.
- All information concerning 16 or 17-year-old voter registration applicants who pre-register to vote.¹⁹

¹⁰ Section 97.052(2), F.S.

¹¹ Section 98.255(1), F.S.

¹² Rule 1S-2.033, F.A.C.

¹³ Section 98.255(2), F.S.

¹⁴ Rule 1S-2.033, F.A.C.

¹⁵ *Id.*

¹⁶ "Agency" means 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 ch. 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.

¹⁷ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates 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); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera 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 Op. Att'y Gen. Fla. 04- 09 (2004).

¹⁸ Section 97.0585, F.S.

¹⁹ Section 97.0585(1), F.S.

In addition, the signature of a voter registration applicant or a voter is exempt from the legal requirement that allows a person to copy a public record.²⁰

Public Record Exemption under Review

In 2019, the Legislature created the public record exemption for all information concerning 16 or 17-year-old voter registration applicants who pre-register to vote.²¹

The 2019 public necessity statement²² provides that:

Information concerning preregistered voter registration applications who are 16 or 17 years of age could be misused if released. Minors are more vulnerable members of society, and the widespread release of information acquired through preregistration activities may be used to solicit, harass, stalk, or intimidate such individuals. Without such protection, a minor may be less likely to take advantage of preregistering to vote, thus hindering the effective and efficient administration of a program that otherwise encourages greater participation in the democratic process.²³

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2024, unless reenacted by the Legislature.²⁴

During the 2023 interim, House and Senate staff sent questionnaires²⁵ to each SOE as part of their review of the exemption under the OGSR Act. The vast majority of responses recommended the exemption be reenacted as is. No responses recommended the repeal of the exemption or indicated being aware of any litigation regarding the exemption. Further, House and Senate staff also met with DOS. DOS staff indicated that the agency was unaware of any litigation regarding the exemption and recommended the exemption be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal of the exemption for all information concerning 16 or 17-year-old voter registration applicants who pre-register to vote, thereby maintaining the public record exemption for such information held by an agency. The bill also authorizes the disclosure of confidential and exempt voter registration information to another governmental entity if it is necessary for the receiving entity to perform its duties and responsibilities.

B. SECTION DIRECTORY:

Section 1 amends s. 97.0585, F.S., relating to public records exemption; information regarding voters and voter registration; confidentiality.

Section 2 provides an effective date of October 1, 2024.

²⁰ Section 97.0585(2), F.S.; *see* Art. I, s. 24(a), FLA. CONST. and s. 119.07(1), F.S., for copying requirements.

²¹ Chapter 2019-55, L.O.F.

²² Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

²³ Chapter 2019-55, L.O.F.

²⁴ Section 97.0585(1)(d), F.S.

²⁵ Open Government Sunset Review Questionnaire, Pre-registered Voters, responses on file with the Ethics, Elections & Open Government Subcommittee.

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 action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking nor confer or alter an agency's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 97.0585, F.S., which
4 provides an exemption from public record requirements
5 for information concerning preregistered voter
6 registration applicants who are minors; removing the
7 scheduled repeal of the exemption; authorizing the
8 disclosure of confidential information in a certain
9 circumstance; providing an effective date.

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

12
13 Section 1. Section 97.0585, Florida Statutes, is amended
14 to read:

15 97.0585 Public records exemption; information regarding
16 voters and voter registration; confidentiality.—

17 (1) The following information held by an agency, as
18 defined in s. 119.011, and obtained for the purpose of voter
19 registration is confidential and exempt from s. 119.07(1) and s.
20 24(a), Art. I of the State Constitution and may be used only for
21 purposes of voter registration:

22 (a) All declinations to register to vote made pursuant to
23 ss. 97.057 and 97.058.

24 (b) Information relating to the place where a person
25 registered to vote or where a person updated a voter

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2024

26 registration.

27 (c) The social security number, driver license number, and
28 Florida identification number of a voter registration applicant
29 or voter.

30 (d) All information concerning preregistered voter
31 registration applicants who are 16 or 17 years of age. ~~This~~
32 ~~paragraph is subject to the Open Government Sunset Review Act in~~
33 ~~accordance with s. 119.15 and shall stand repealed on October 2,~~
34 ~~2024, unless reviewed and saved from repeal through reenactment~~
35 ~~by the Legislature.~~

36 (2) The signature of a voter registration applicant or a
37 voter is exempt from the copying requirements of s. 119.07(1)
38 and s. 24(a), Art. I of the State Constitution.

39 (3) Information made confidential and exempt under this
40 section may be disclosed to another governmental entity if
41 disclosure is necessary for the receiving entity to perform its
42 duties and responsibilities.

43 (4)-(3) This section applies to information held by an
44 agency before, on, or after the effective date of this
45 exemption.

46 Section 2. This act shall take effect October 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7005 PCB EEG 24-03 OGSR/Financial Disclosure
SPONSOR(S): Ethics, Elections & Open Government Subcommittee, Holcomb
TIED BILLS: IDEN./SIM. **BILLS:** SB 7012

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ethics, Elections & Open Government Subcommittee	12 Y, 0 N	Poreda	Toliver
1) State Affairs Committee		Poreda	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption 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.

The Code of Ethics for Public Officers and Employees establishes ethical standards for public officials and is intended to ensure that public officials conduct themselves independently and impartially. The Commission on Ethics (Commission) is an independent commission that, in part, maintains financial disclosure filings of public officers, candidates for public office, and certain public employees.

The State Constitution requires elected constitutional officers, candidates for such offices, and statewide elected officers to file a “full and public disclosure of their financial interests.” Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law. Individuals filing a full and public disclosure use the Commission’s CE Form 6 (Form 6). Current law also requires a less detailed disclosure of financial interests using the Commission’s CE Form 1 (Form 1) for certain local officers, including certain officers holding elected positions in political subdivisions of the state, as well as specified appointed officers. Other persons filing Form 1 include specified state officers and employees as well as persons seeking to qualify as candidates for state or local office.

In 2015, the Commission began the process of transitioning from a paper-based filing system for financial disclosures to an electronic filing system. Form 6 filers began filing electronically as of January 1, 2023, and Form 1 began using the electronic filing system as of January 1, 2024.

The bill saves from repeal the public record exemptions for all secure login credentials held by the Commission for the purpose of allowing access to the electronic financial disclosure filing system, as well as information entered into the system prior to submission for the purpose of making the disclosure. The exemptions will repeal on October 2, 2024, if this bill does not become law.

The bill does not appear to have a fiscal impact on state government 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 (OGSR 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.²

The OGSR 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.³

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁴ 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, then a public necessity statement and a two-thirds vote for passage are not required.

The Code of Ethics for Public Officers and Employees

The Code of Ethics for Public Officers and Employees (Code of Ethics)⁵ establishes ethical standards for public officials and is intended to "ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law."⁶ The Code of Ethics pertains to various ethical issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, standards of conduct, and the Commission on Ethics (Commission).⁷

Commission on Ethics

The State Constitution requires the creation of an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within jurisdiction of the judicial qualifications commission.⁸ The Commission was created by the Legislature in 1974 "to serve as guardian of the standards of conduct" for state and local public officials and employees.⁹ In addition to its constitutional duties, the Commission, in part:

- Renders advisory opinions to public officials.¹⁰

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Article I, s. 24(c), FLA. CONST.

⁵ See Pt. III, Ch. 112, F.S.; see also Art. II, s. 8(h)(1), FLA. CONST.

⁶ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf> (last visited December 19, 2023).

⁷ See Pt. III, Ch. 112, F.S.

⁸ Article II, s. 8(g), FLA. CONST.

⁹ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf> (last visited December 19, 2023); see also s.

112.320, F.S.

¹⁰ Section 112.322(3)(a), F.S.

- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws.¹¹
- Administers the executive branch lobbying registration and reporting law.¹²
- Maintains financial disclosure filings of constitutional officers and state officers and employees.¹³
- Administers automatic fines for public officers and employees who fail to timely file their required annual financial disclosure.¹⁴

Disclosure of Financial Interests

The State Constitution requires elected constitutional officers, candidates for such offices, and statewide elected officers to file a “full and public disclosure of their financial interests.”¹⁵ Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.¹⁶

The term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.¹⁷ The disclosure must be accompanied by either a copy of the filer’s most recent federal income tax return or a sworn statement that identifies each separate source and amount of income that exceeds \$1,000.¹⁸ The Commission has created by rule CE Form 6 (Form 6) to be used to make the required full and public financial disclosure.¹⁹

Currently, individuals holding the following positions must file Form 6:²⁰

- Governor.
- Lieutenant Governor.
- Cabinet members.
- Legislators.
- State attorneys.
- Public defenders.
- Clerks of circuit court.
- Sheriffs.
- Tax collectors.
- Property appraisers.
- Supervisors of elections.
- County commissioners.
- Mayors and elected members of a municipal governing body.
- Elected superintendents of schools.
- District school board members.
- Jacksonville City Council members, including the mayor.
- Judges of compensation claims.
- Duval County Superintendent of Schools.
- Florida Housing Finance Corporation board members.
- Each member of a large-hub commercial service airport.

¹¹ Section 112.322(2)(b), F.S.

¹² Sections 112.3215 and 112.32155, F.S.

¹³ Section 112.3144, F.S.

¹⁴ Section 112.31455, F.S.; *see also* Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf> (last visited December 19, 2023).

¹⁵ Article II, s. 8(a), FLA. CONST.

¹⁶ *See* s. 112.3144(1), F.S.

¹⁷ Article II, s. 8(j)(1), FLA. CONST.

¹⁸ *Id.*; *see also* s. 112.3144, F.S.

¹⁹ Section 112.3144(8), F.S.; *see also* r. 34-7.010, F.A.C.

²⁰ Rule 34-8.003, F.A.C.; *see also* Commission on Ethics, *Filing Information*, available at https://www.ethics.state.fl.us/Documents/Forms/Form1.html#form_6 (last visited December 19, 2023).

- Each member of an expressway authority, a transportation authority (except the Jacksonville Transportation Authority), a bridge authority, or a toll authority created pursuant to chapter 343, F.S., or chapter 348, F.S., or any other general law.

Reporting individuals must file Form 6 annually with the Commission by 11:59 p.m. on July 1.²¹ Additionally, candidates for a constitutional office must make a full and public disclosure of their financial interests at the time of qualifying.

Current law requires a less detailed disclosure of financial interests using the Commission's CE Form 1 (Form 1) for certain local officers, including certain officers holding elected positions in political subdivisions of the state, as well as specified appointed officers.²² Other persons filing Form 1 include specified state officers and employees as well as persons seeking to qualify as candidates for state or local office.²³ Form 1 requires individuals to disclose their primary sources of income, other than their public position, secondary sources of income, real property, intangible personal property, liabilities, and interests in specific businesses.²⁴

Although no specific dollar values of incomes, property, or liabilities are required to be reported, the filer must report which assets or liabilities exceed certain dollar thresholds.²⁵ Form 1 filers must disclose all sources of income in excess of \$2,500, excluding public salary, all sources of income from a business entity that the filers had a material interest in where their gross income was in excess of \$5,000 and in excess of 10 percent of the business' gross income. Form 1 filers must also disclose any property, except for their residence or vacation home, in which the person owns more than 5 percent of the value of the property, as well as any intangible property in excess of \$10,000 and any liability in excess of \$10,000.²⁶ Form 1 must be filed annually with the Commission by 11:59 p.m. on July 1.²⁷

Electronic Financial Disclosure

In 2015, the Commission began the process of transitioning from a paper-based filing system for financial disclosures to an electronic filing system.²⁸ That system was procured and testing began in 2022.²⁹ Form 6 filers began filing electronically as of January 1, 2023,³⁰ and Form 1 filers began using the electronic filing system as of January 1, 2024.³¹

Public Record Exemptions under Review

In 2019, the Legislature created two public record exemptions to facilitate the use of the electronic financial disclosure system.³² The first exemption protected all secure login credentials held by the Commission for the purpose of allowing access to the electronic financial disclosure filing system. The second exemption protected information entered into the system prior to submission for the purpose of

²¹ Section 112.3144(8)(d), F.S.

²² Section 112.3145, F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 112.3145(3), F.S.

²⁶ Section 112.3145(3)(b), F.S.

²⁷ Section 112.3145(2)(b), F.S.

²⁸ Section 112.31445, F.S.

²⁹ Section 112.31446(2), F.S.

³⁰ Section 112.3144(8)(b)2., F.S.

³¹ Section 112.3145(2)(e), F.S.

³² Section 112.31446(6), F.S.

making the disclosure.³³ Once information entered into the system is submitted to the Commission or filed with a qualifying officer, the information loses its exempt³⁴ status and becomes public.³⁵

The 2019 public necessity statement³⁶ provides that:

The Legislature finds that the public's need for access to information included in the full and public disclosures of financial interests or statements of financial interests filed by reporting individuals be balanced with the filer's interest in safeguarding personally sensitive information. The Legislature further finds that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts.³⁷

Pursuant to the OGSR Act, the exemptions will repeal on October 2, 2024, unless reenacted by the Legislature.

During the 2023 interim, House and Senate staff met with Commission staff regarding the public record exemptions under review. Commission staff emphasized the importance of the exemptions as it protects secure login credentials to the electronic filing system itself, as well as personally sensitive information that may subject the filer to identity theft, financial harm, or other adverse impacts if it was not protected. As such, Commission staff recommended the exemptions be reenacted as is.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemptions, thereby maintaining the public record exemptions for all secure login credentials used to access the electronic financial disclosure filing system, as well as information entered into the system for the purpose of making the disclosure prior to submission.

B. SECTION DIRECTORY:

Section 1 amends s. 112.31446, F.S., relating to electronic filing system for financial disclosure.

Section 2 provides an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

³³ Section 112.31446(6)(a), F.S.

³⁴ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates 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); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera 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 Op. Att'y Gen. Fla. 04- 09 (2004).*

³⁵ Section 112.31446(6)(b), F.S.

³⁶ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

³⁷ Chapter 2019-40, L.O.F.

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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 112.31446, F.S., which
 4 provides exemptions from public records requirements
 5 for secure login credentials held by the Commission on
 6 Ethics and certain information entered into the
 7 electronic filing system for financial disclosure;
 8 removing the scheduled repeal of the exemption;
 9 providing an effective date.

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

12
 13 Section 1. Paragraph (c) of subsection (6) of section
 14 112.31446, Florida Statutes, is amended to read:

15 112.31446 Electronic filing system for financial
 16 disclosure.—

17 (6)

18 ~~(c) This subsection is subject to the Open Government~~
 19 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 20 ~~repealed on October 2, 2024, unless reviewed and saved from~~
 21 ~~repeal through reenactment by the Legislature.~~

22 Section 2. This act shall take effect October 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7011 PCB LFS 24-01 Inactive Special Districts

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Persons-Mulicka

TIED BILLS: IDEN./SIM. **BILLS:** SB 1052

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Mwakyanjala	Darden
1) State Affairs Committee		Mwakyanjala	Williamson

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

The Department of Commerce (department) must declare a special district inactive if it meets certain criteria. Declaring a special district inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature or the county or municipality that created the district.

The bill dissolves the following special districts created by special act, which have been declared inactive by the department, and repeals their enabling laws:

- Calhoun County Transportation Authority.
- Dead Lakes Water Management District.
- Emerald Coast Bridge Authority.
- Highland View Water and Sewer District.
- West Orange Airport Authority.

The bill also dissolves the Sunny Isles Reclamation and Water Control Board and repeals the judicial order establishing the district.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as the governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁴

A district is classified as “independent” if it does not meet one of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁵

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating a special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁶

The Special District Accountability Program within the Department of Commerce (department) is responsible for maintaining and electronically publishing the official list of all special districts.⁷ This list includes all active special districts, as well as a separate list of those districts declared inactive.⁸

Inactive Special Districts

Whether dependent or independent, the department must declare a special district inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district's governing body, or the governing body of the appropriate county or municipality:
 - Provides written notice to the department that the district has taken no action for two or more years;
 - Provides written notice to the department that the district has not had a governing body or a sufficient number of governing body members to constitute a quorum for two or more years; or

¹ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

² See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally ss. 189.012(6), F.S.

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Nov. 28, 2023).

⁴ S. 189.012(2), F.S.

⁵ S. 189.012(3), F.S.

⁶ Art. VII, s. 9(a), Fla. Const.

⁷ S. 189.061, F.S.

⁸ Ss. 189.061 and 189.062(6), F.S.

- Fails to respond to an inquiry by the department within 21 days.⁹
- The department determines the district failed to file certain specified reports,¹⁰ including required financial reports.¹¹
- The district has not had a registered office or agent on file with the department for one or more years.¹²
- The governing body of the district provides documentation to the department that it has unanimously adopted a resolution declaring the district inactive.¹³

After the department determines at least one of these criteria applies to the special district, a notice of the proposed declaration of inactive status may be published by the department, the county or municipality for the area where the district is located, or the district itself. The notice must be published in a newspaper of general circulation in the county or municipality where the special district is located, and a copy of the notice must be sent by certified mail to the registered agent or chair of the district's board.¹⁴ The notice must include the name of the district, the law under which the district was organized and operating, a general description of the territory of the district, and a statement that any objections to the declaration must be filed pursuant to chapter 120, F.S.,¹⁵ within 21 days after the publication date. If no objection is filed within the 21-day period, the department declares the district inactive.¹⁶

After declaring a special district inactive, the department must send written notice of the declaration to the authorities that created the district.¹⁷ This notification is intended to facilitate the process of dissolving districts that have been declared inactive.¹⁸ For districts created by special act, the declaration of inactive status fulfills the constitutional notice requirement for the repeal of those special acts.¹⁹ Current law also provides that the special acts creating or amending the charter of an inactive special district may be repealed by general law.²⁰

A district declared inactive may not collect taxes, fees, or assessments until the declaration of invalid status is withdrawn, revoked by the department, or invalidated in an administrative proceeding or civil action.²¹ Any property and assets of a special district declared inactive must first be used to pay any debts of the district,²² and any remaining property or assets then escheat to the county or municipality in which the district is located. If the district's property or assets are insufficient to pay its outstanding debts, the county or municipality in which the district was located may assess and levy taxes within the territory of the inactive district as necessary to pay the remaining debt.

Declaring a special district inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature or the county or municipality that created the district.²³

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). A WCD has authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.²⁴ Prior to July 1, 1980, the authority to create a WCD was delegated to circuit courts by statute, with WCDs

⁹ S. 189.062(1)(a)1.-3., F.S.

¹⁰ S. 189.066, F.S.

¹¹ S. 189.062(1)(a)4., F.S. See ss. 189.016(9), 218.32, and 218.39, F.S.

¹² S. 189.062(1)(a)5., F.S.

¹³ S. 189.062(1)(a)6., F.S.

¹⁴ S. 189.062(1)(b), F.S.

¹⁵ Chapter 120, F.S., is the Administrative Procedure Act.

¹⁶ S. 189.062(1)(c), F.S.

¹⁷ S. 189.062(3), F.S.

¹⁸ See ss. 189.071(3) and 189.072(3), F.S.

¹⁹ S. 189.062(3)(a), F.S.

²⁰ *Id.*

²¹ S. 189.062(5), F.S.

²² S. 189.062(2), F.S.

²³ S. 189.062(4), F.S.

²⁴ S. 298.22, F.S.

created by the submission of a petition signed by a majority of the landowners in the area of the proposed district to the circuit court that had jurisdiction over the area.²⁵ Today, WCDs may be created only by special act or county ordinance.²⁶ The charter of a district that predates July 1, 1980, may only be modified by special act.²⁷

Effect of Proposed Changes

The bill dissolves the following special districts created by special act, which have been declared inactive by the department, and repeals their enabling laws:

- Calhoun County Transportation Authority.²⁸
- Dead Lakes Water Management District.²⁹
- Emerald Coast Bridge Authority.³⁰
- Highland View Water and Sewer District.³¹
- West Orange Airport Authority.³²

Notwithstanding s. 189.072(3), F.S., the bill dissolves the Sunny Isles Reclamation and Water Control Board and repeals the judicial order establishing the district.³³ This district was initially created pursuant to authority delegated to circuit courts to create WCDs. As a district created by the petition process, which process was repealed in 1980, the charter of the district would otherwise only be subject to revision by special act.

B. SECTION DIRECTORY:

Section 1: Dissolves special districts created by special act that have been declared inactive by the department and repeals their enabling laws.

Section 2: Dissolves the Sunny Isles Reclamation and Water Control Board and repeals the judicial order establishing the district.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

²⁵ See s. 298.01, F.S. (authorizing “water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section and former ss. 298.02 and 298.03, may continue to operate as outlined in this chapter.”) See *also* s. 298.01, F.S. (1980) and ch. 79-5, ss. 1-3, Laws of Fla. Originally, the Board of Drainage Commissioners for the State also had authority to prepare and file a petition to form a drainage district. See ch. 6458, s. 1, Laws of Fla. (1913).

²⁶ S. 298.01, F.S.

²⁷ See s. 298.76(5), F.S.

²⁸ Ch. 76-341, Laws of Fla.

²⁹ Ch. 57-1115, Laws of Fla.

³⁰ Chs. 90-412 and 2001-346, Laws of Fla.

³¹ Chs. 61-2212 and 85-417, Laws of Fla.

³² Chs. 99-482 and 2007-305, Laws of Fla.

³³ Decree 66C-7402, entered by the circuit court in and for the Eleventh Circuit Court.

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:

None.

B. RULE-MAKING AUTHORITY:

This bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to inactive special districts;
 3 dissolving special districts that have been declared
 4 inactive and repealing their enabling laws; providing
 5 an exception to general law; dissolving the Sunny
 6 Isles Reclamation and Water Control Board and
 7 repealing the judicial order establishing the
 8 district; providing an effective date.

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

11
 12 Section 1. The following special districts, which are no
 13 longer operating and have been declared inactive by the
 14 Department of Commerce pursuant to section 189.062, Florida
 15 Statutes, are hereby dissolved and their enabling laws are
 16 repealed:

17 (1) Chapter 76-341, Laws of Florida, is repealed and the
 18 Calhoun County Transportation Authority is dissolved.

19 (2) Chapter 57-1115, Laws of Florida, is repealed and the
 20 Dead Lakes Water Management District is dissolved.

21 (3) Chapters 90-412 and 2001-346, Laws of Florida, are
 22 repealed and the Emerald Coast Bridge Authority is dissolved.

23 (4) Chapters 61-2212 and 85-417, Laws of Florida, are
 24 repealed and the Highland View Water and Sewer District is
 25 dissolved.

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26 (5) Chapters 99-482 and 2007-305, Laws of Florida, are
27 repealed and the West Orange Airport Authority is dissolved.

28 Section 2. Notwithstanding section 189.072(3), Florida
29 Statutes, Decree 66C-7402 entered by the circuit court in and
30 for the Eleventh Circuit Court pursuant to chapter 298, Florida
31 Statutes (1966), is repealed and the Sunny Isles Reclamation and
32 Water Control Board is dissolved.

33 Section 3. This act shall take effect July 1, 2024.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7011 (2024)

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		

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative Persons-Mulicka offered the following:

3
4
5
6

Amendment

Remove lines 21-22