

Government Operations Subcommittee

**Wednesday, January 11, 2012
11:30 AM
306 HOB**

Meeting Packet

**Dean Cannon
Speaker**

**Jimmy Patronis
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Wednesday, January 11, 2012 11:30 am
End Date and Time: Wednesday, January 11, 2012 02:00 pm
Location: 306 HOB
Duration: 2.50 hrs

Consideration of the following bill(s):

CS/HB 481 Clerks of Court by Civil Justice Subcommittee, Pilon
HB 541 Administrative Procedures by Brandes
HB 629 Pub. Rec./Agency Personnel Information/Dates of Birth by Hooper
HB 811 Pub. Rec./Dental Workforce Surveys by Harrell
HB 4151 Governmental Efficiency Hotline by Rooney

Consideration of the following proposed committee bill(s):

PCB GVOPS 12-06 -- OGSR Personal Injury Protection and Property Damage Liability Insurance Policies
PCB GVOPS 12-07 -- OGSR Physician Workforce Surveys
PCB GVOPS 12-08 -- OGSR Sunshine State One-Call of Florida, Inc.

NOTICE FINALIZED on 01/09/2012 16:19 by Godwin.Chandra

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 481 Clerks of Court
SPONSOR(S): Civil Justice Subcommittee, Pilon
TIED BILLS: IDEN./SIM. **BILLS:** SB 860

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N, As CS	Cary	Bond
2) Government Operations Subcommittee		Naf <i>en</i>	Williamson <i>AW</i>
3) Justice Appropriations Subcommittee			
4) Judiciary Committee			

SUMMARY ANALYSIS

Relating to the clerks of the circuit courts, this bill:

- Provides guidelines for electronic filing of documents;
- Requires clerks to seal or expunge certain court documents upon court order;
- Requires persons filing a written request to have their personal information protected under the general agency personnel information public record exemption to specify the document type, name, identification number, and page number of the record that contains the exempt or confidential information;
- Increases the minimum amount the clerks are required to refund without a written request in the event of an overpayment from \$5 to \$10;
- Limits the state agency exemption from payment of court-related fees to the state agency and the party it is representing;
- Authorizes the filing of electronic affidavits regarding publication of a legal advertisement; and
- Provides that following the sale of a tax certificate, if a property is redeemed prior to the clerk receiving full payment from the sale at a public auction, the high bidder must submit a written request in order to receive a refund of the deposit.

The bill may have a positive, indeterminate fiscal impact on state revenues and state expenditures. The bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill makes several changes relating to the clerks of courts.

Electronic Filings

The clerk of the circuit court is required to keep all papers with the utmost care and security, arranged in appropriate files.¹ The clerk is also required to ensure that the papers do not leave the office without leave of court.² The statute does not address requirements to maintain electronic filings.

This bill amends s. 28.13, F.S., to address electronic filings. The bill specifically requires clerks to affix a stamp to submissions to the office indicating the date and time when it was filed. The bill also replaces a provision in current law that papers do not leave the office with language that the clerk must ensure that documents must not be removed from the control or custody of the clerk.

Clerk as County Recorder

The clerk of the circuit court generally acts as the county recorder.³ This bill amends s. 28.222, F.S., to add a new subsection (4) requiring the clerk, when acting in his or her capacity as a county recorder, to remove recorded court documents from the Official Records pursuant to a sealing or expunction order.

Public Records

A clerk of court is a custodian of public records and is thus required to provide access to and copies of public records, if the requesting party is entitled by law to view the record.⁴

Certain personal information of some agency personnel, including law enforcement personnel, firefighters, justices and judges, state attorneys, magistrates, and specified others, is exempt⁵ from public records requirements.⁶ If such exempt information is held by an agency other than the employer of a specified person, the person must submit a written request for maintenance of the exemption to that agency.⁷

This bill amends s. 119.071(4)(d)2., F.S., to require that a person who submits such written request to maintain the exemption must specify the document type, name, identification number, and page number of the record that contains the exempt or confidential information. This new requirement is applicable to all agency records, not just to records held by a clerk of court.

¹ Section 28.13, F.S.

² *Id.*

³ Section 28.222(1), F.S.

⁴ See art. I, s. 24(a) of the Florida Const., ch. 119, F.S., and s. 28.24, F.S. The Florida Constitution provides a process by which the Legislature may make certain records or portions of records exempt from public disclosure (art. I, s. 24(c) of the Fla. Const.).

⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 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 the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

⁶ Section 119.071(4)(d), F.S.

⁷ Section 119.071(4)(d)2., F.S.

Refunds

If a clerk of court determines that an overpayment was made, the clerk is required to make a refund if the overpayment exceeds \$5.⁸ If the amount of the overpayment is \$5 or less, the clerk need only refund the amount if the person who made the overpayment submits a written request.⁹ This bill amends s. 24.244, F.S., to increase the minimum from \$5 to \$10.

Fee Exemption

Certain individuals and groups, such as judges, state attorneys, and public defenders, are exempt from all court-related fees and charges assessed by the clerk of the circuit court, when acting in their official capacity.¹⁰ State agencies are also exempt from all court-related fees and charges assessed by the clerk.¹¹ This bill amends ss. 28.24 and 28.345, F.S., limiting the state agency exemption to the agency and the party it is representing.

Proof of Publication

Numerous statutes require the publication of legal notice for various actions.¹² Generally, proof of such publication is made by printed affidavit.¹³ This bill amends s. 50.041(2), F.S., to authorize an alternative, electronic affidavit, provided the notarization of the affidavit complies with the electronic notarization statute in s. 117.021, F.S.¹⁴

Sale at Public Auction

A tax certificate is issued by a local government relating to unpaid delinquent real property taxes, non-ad valorem assessments, special assessments, interest, and related costs and charges, issued in accordance with ch. 172, F.S., and against a specific parcel of real property.¹⁵ An unpaid tax certificate is a lien against the real property that can lead to public sale of the property.

When a tax certificate is redeemed (paid by the property owner), the certificate holder receives the amount of his or her investment (the tax certificate face amount) plus the interest accrued up to the date of redemption. A tax certificate can be redeemed anytime before a tax deed is issued or the property is placed on the list of lands available for sale either by redeeming a tax certificate from the investor or by purchasing a county-held tax certificate. The person redeeming or purchasing the tax certificate is required to pay the face amount of the certificate, plus costs and charges and all interest due, which is either the interest rate due on the certificate or a 5 percent mandatory minimum interest, whichever is greater.¹⁶ The tax collector then pays the certificate owner the amount received by the tax collector, less the redemption fee.¹⁷

When property is sold by the clerk of court at a public auction, the certificate holder has the right to bid. The high bidder must post a nonrefundable deposit of 5 percent of the bid or \$200, whichever is greater, to be applied to the sale price at the time of full payment.¹⁸ If full payment of the final bid is not

⁸ Section 24.244, F.S.

⁹ *Id.*

¹⁰ Section 28.345, F.S.

¹¹ *Id.*

¹² *See, e.g.*, s. 50.011, F.S.

¹³ Sections 50.031 and 50.041(1), F.S.

¹⁴ Section 117.021, F.S., requires that when a document is notarized electronically, it contains an electronic signature that is unique to the notary public, capable of independent verification, retained under the notary public's sole control, and attached to or logically associated with the electronic document.

¹⁵ Section 197.102(1)(f), F.S.

¹⁶ Section 197.472, F.S.

¹⁷ *Id.*

¹⁸ Section 197.542(2), F.S.

made within 24 hours, the clerk cancels all bids, readvertises the sale, and pays all costs of the sale from the deposit.¹⁹ Any remaining funds must be applied toward the opening bid.²⁰

This bill amends s. 197.542(2), F.S., to provide that if the property is redeemed prior to the clerk receiving full payment from the sale at a public auction, the high bidder must submit a written request in order to receive a refund of the deposit. Upon receipt of a written request, the clerk must refund the cash deposit.

B. SECTION DIRECTORY:

Section 1 amends s. 28.13, F.S., relating to electronic filings.

Section 2 creates a new subsection (4) of s. 28.444, F.S., relating to removal of certain recorded court documents from the official records, and renumbers subsequent subsections.

Section 3 amends s. 28.24, F.S., relating to service charges.

Section 4 amends s. 28.244, F.S., relating to refunds by the clerk of the circuit court.

Section 5 amends s. 28.345, F.S., relating to exemption from court-related fees and charges.

Section 6 amends s. 50.041, F.S., relating to affidavits for proof of publication.

Section 7 amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 8 amends s. 197.542, F.S., relating to sale at public auction.

Section 9 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The clerks of court believe this bill may have an indeterminate positive impact on state revenues.²¹

2. Expenditures:

The clerks of court believe this bill may have an indeterminate positive impact on state expenditures.²²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Bill analysis by the Florida Association of Court Clerks (November 8, 2011). (On file with the Government Operations Subcommittee.)

²² *Id.*

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 affect county or municipal governments.

2. Other:

The bill's amendment of a general public record exemption²³ may implicate the constitutional single subject rule. The Florida Constitution imposes a single subject restriction on laws enacted by the Legislature: "Every law shall embrace but one subject and matter properly connected therewith ..."²⁴ The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise and fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal so long as the matters included in the enactment have a natural or logical connection.²⁵

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is an act relating to clerks of court; however, it amends a general public record exemption for agency personnel information to impose an additional requirement.²⁶ Although located within a general exemption, the proposed change appears to apply only to court records and official records. The sponsor may want to consider an amendment to clarify that the requirement applies only to court records and official records, if that is the intent.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 16, 2011, the Civil Justice Subcommittee adopted three amendments. The amendments:

- Move a provision relating to fee exemptions for state agencies from the statute relating to service charges to the statute relating to fee state agency relations with the clerks; and
- Remove a potentially confusing cross-reference.

The bill was then reported favorably. The analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

²³ Lines 452-454 of the bill.

²⁴ Article III, s. 6 of the Florida Const.

²⁵ *Franklin v. State*, 887 So.2d 1063 (Fla. 2004), rehearing denied.

²⁶ Lines 452-454 of the bill.

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A bill to be entitled
 An act relating to clerks of court; amending s. 28.13,
 F.S.; providing requirements for storage of electronic
 filings; requiring papers and electronic filings to be
 electronically time stamped; amending s. 28.222, F.S.;
 authorizing the clerk to remove sealed or expunged
 court records from the Official Records; amending s.
 28.24, F.S.; revising language concerning an exemption
 from charges for services provided to specified
 officials and their staffs; amending s. 28.244, F.S.;
 increasing the threshold amount for automatic
 repayment of overpayments; amending s. 28.345, F.S.;
 providing for access to clerks' files by state
 agencies and an exemption from copying fees and
 charges; limiting the application of an exemption from
 payment of fees and charges assessed by clerks of
 circuit courts to official use; amending s. 50.041,
 F.S.; authorizing the use of electronic proof of
 publication affidavits; amending s. 119.071, F.S.;
 requiring certain persons to provide specific
 information to the clerk to maintain the public
 records exemption status of certain information;
 amending s. 197.542, F.S.; authorizing the clerk to
 issue a refund to the depositor for redeemed property
 subject to a tax sale; providing an effective date.

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

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29 Section 1. Section 28.13, Florida Statutes, is amended to
30 read:

31 28.13 ~~To keep Papers and electronic filings.~~—The clerk of
32 the circuit court shall keep all papers and electronic filings
33 ~~filed~~ in the clerk's office with the utmost care and security,
34 storing them in association with related case arranged in
35 ~~appropriate~~ files and affixing a stamp to the submission
36 indicating ~~(endorsing upon each~~ the date and time when the
37 submission ~~same~~ was filed. The clerk ~~), and~~ shall not permit any
38 attorney or other person to remove documents, ~~take papers~~ once
39 filed, from the control or custody ~~out of the office of the~~
40 clerk without leave of the court, except as otherwise is
41 ~~hereinafter~~ provided by law.

42 Section 2. Subsections (4) through (6) of section 28.222,
43 Florida Statutes, are renumbered as subsections (5) through (7),
44 respectively, and a new subsection (4) is added to that section
45 to read:

46 28.222 Clerk to be county recorder.—

47 (4) The county recorder shall remove recorded court
48 documents from the Official Records pursuant to a sealing or
49 expunction order.

50 Section 3. Section 28.24, Florida Statutes, is amended to
51 read:

52 28.24 ~~Service charges by clerk of the circuit court.~~—The
53 clerk of the circuit court shall charge for services rendered by
54 the clerk's office in recording documents and instruments and in
55 performing the duties enumerated in amounts not to exceed those
56 specified in this section, except as provided in s. 28.345.

57 ~~Notwithstanding any other provision of this section, the clerk~~
 58 ~~of the circuit court shall provide without charge to the state~~
 59 ~~attorney, public defender, guardian ad litem, public guardian,~~
 60 ~~attorney ad litem, criminal conflict and civil regional counsel,~~
 61 ~~and private court-appointed counsel paid by the state, and to~~
 62 ~~the authorized staff acting on behalf of each, access to and a~~
 63 ~~copy of any public record, if the requesting party is entitled~~
 64 ~~by law to view the exempt or confidential record, as maintained~~
 65 ~~by and in the custody of the clerk of the circuit court as~~
 66 ~~provided in general law and the Florida Rules of Judicial~~
 67 ~~Administration. The clerk of the circuit court may provide the~~
 68 ~~requested public record in an electronic format in lieu of a~~
 69 ~~paper format when capable of being accessed by the requesting~~
 70 ~~entity.~~

Charges

71
 72 (1) For examining, comparing, correcting, verifying, and
 73 certifying transcripts of record in appellate proceedings,
 74 prepared by attorney for appellant or someone else other than
 75 clerk, per page 5.00

76 (2) For preparing, numbering, and indexing an original
 77 record of appellate proceedings, per instrument 3.50

78 (3) For certifying copies of any instrument in the public
 79 records 2.00

80 (4) For verifying any instrument presented for
 81 certification prepared by someone other than clerk, per page
 82 3.50

83 (5) (a) For making copies by photographic process of any
 84 instrument in the public records consisting of pages of not more

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85 than 14 inches by 8 1/2 inches, per page 1.00
 86 (b) For making copies by photographic process of any
 87 instrument in the public records of more than 14 inches by 8 1/2
 88 inches, per page 5.00
 89 (6) For making microfilm copies of any public records:
 90 (a) 16 mm 100' microfilm roll 42.00
 91 (b) 35 mm 100' microfilm roll 60.00
 92 (c) Microfiche, per fiche 3.50
 93 (7) For copying any instrument in the public records by
 94 other than photographic process, per page 6.00
 95 (8) For writing any paper other than herein specifically
 96 mentioned, same as for copying, including signing and sealing
 97 7.00
 98 (9) For indexing each entry not recorded 1.00
 99 (10) For receiving money into the registry of court:
 100 (a)1. First \$500, percent 3
 101 2. Each subsequent \$100, percent 1.5
 102 (b) Eminent domain actions, per deposit 170.00
 103 (11) For examining, certifying, and recording plats and
 104 for recording condominium exhibits larger than 14 inches by 8
 105 1/2 inches:
 106 (a) First page 30.00
 107 (b) Each additional page 15.00
 108 (12) For recording, indexing, and filing any instrument
 109 not more than 14 inches by 8 1/2 inches, including required
 110 notice to property appraiser where applicable:
 111 (a) First page or fraction thereof 5.00
 112 (b) Each additional page or fraction thereof 4.00

113 (c) For indexing instruments recorded in the official
 114 records which contain more than four names, per additional name
 115 1.00

116 (d) An additional service charge shall be paid to the
 117 clerk of the circuit court to be deposited in the Public Records
 118 Modernization Trust Fund for each instrument listed in s.
 119 28.222, except judgments received from the courts and notices of
 120 lis pendens, recorded in the official records:

- 121 1. First page 1.00
- 122 2. Each additional page 0.50

123

124 Said fund shall be held in trust by the clerk and used
 125 exclusively for equipment and maintenance of equipment,
 126 personnel training, and technical assistance in modernizing the
 127 public records system of the office. In a county where the duty
 128 of maintaining official records exists in an office other than
 129 the office of the clerk of the circuit court, the clerk of the
 130 circuit court is entitled to 25 percent of the moneys deposited
 131 into the trust fund for equipment, maintenance of equipment,
 132 training, and technical assistance in modernizing the system for
 133 storing records in the office of the clerk of the circuit court.
 134 The fund may not be used for the payment of travel expenses,
 135 membership dues, bank charges, staff-recruitment costs, salaries
 136 or benefits of employees, construction costs, general operating
 137 expenses, or other costs not directly related to obtaining and
 138 maintaining equipment for public records systems or for the
 139 purchase of furniture or office supplies and equipment not
 140 related to the storage of records. On or before December 1,

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141 1995, and on or before December 1 of each year immediately
 142 preceding each year during which the trust fund is scheduled for
 143 legislative review under s. 19(f)(2), Art. III of the State
 144 Constitution, each clerk of the circuit court shall file a
 145 report on the Public Records Modernization Trust Fund with the
 146 President of the Senate and the Speaker of the House of
 147 Representatives. The report must itemize each expenditure made
 148 from the trust fund since the last report was filed; each
 149 obligation payable from the trust fund on that date; and the
 150 percentage of funds expended for each of the following:
 151 equipment, maintenance of equipment, personnel training, and
 152 technical assistance. The report must indicate the nature of the
 153 system each clerk uses to store, maintain, and retrieve public
 154 records and the degree to which the system has been upgraded
 155 since the creation of the trust fund.

156 (e) An additional service charge of \$4 per page shall be
 157 paid to the clerk of the circuit court for each instrument
 158 listed in s. 28.222, except judgments received from the courts
 159 and notices of lis pendens, recorded in the official records.
 160 From the additional \$4 service charge collected:

161 1. If the counties maintain legal responsibility for the
 162 costs of the court-related technology needs as defined in s.
 163 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
 164 Florida Association of Court Clerks and Comptroller, Inc., for
 165 the cost of development, implementation, operation, and
 166 maintenance of the clerks' Comprehensive Case Information
 167 System, in which system all clerks shall participate on or
 168 before January 1, 2006; \$1.90 shall be retained by the clerk to

169 | be deposited in the Public Records Modernization Trust Fund and
 170 | used exclusively for funding court-related technology needs of
 171 | the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall
 172 | be distributed to the board of county commissioners to be used
 173 | exclusively to fund court-related technology, and court
 174 | technology needs as defined in s. 29.008(1)(f)2. and (h) for the
 175 | state trial courts, state attorney, public defender, and
 176 | criminal conflict and civil regional counsel in that county. If
 177 | the counties maintain legal responsibility for the costs of the
 178 | court-related technology needs as defined in s. 29.008(1)(f)2.
 179 | and (h), notwithstanding any other provision of law, the county
 180 | is not required to provide additional funding beyond that
 181 | provided herein for the court-related technology needs of the
 182 | clerk as defined in s. 29.008(1)(f)2. and (h). All court records
 183 | and official records are the property of the State of Florida,
 184 | including any records generated as part of the Comprehensive
 185 | Case Information System funded pursuant to this paragraph and
 186 | the clerk of court is designated as the custodian of such
 187 | records, except in a county where the duty of maintaining
 188 | official records exists in a county office other than the clerk
 189 | of court or comptroller, such county office is designated the
 190 | custodian of all official records, and the clerk of court is
 191 | designated the custodian of all court records. The clerk of
 192 | court or any entity acting on behalf of the clerk of court,
 193 | including an association, shall not charge a fee to any agency
 194 | as defined in s. 119.011, the Legislature, or the State Court
 195 | System for copies of records generated by the Comprehensive Case
 196 | Information System or held by the clerk of court or any entity

197 acting on behalf of the clerk of court, including an
 198 association.

199 2. If the state becomes legally responsible for the costs
 200 of court-related technology needs as defined in s.
 201 29.008(1)(f)2. and (h), whether by operation of general law or
 202 by court order, \$4 shall be remitted to the Department of
 203 Revenue for deposit into the General Revenue Fund.

204 (13) Oath, administering, attesting, and sealing, not
 205 otherwise provided for herein 3.50

206 (14) For validating certificates, any authorized bonds,
 207 each 3.50

208 (15) For preparing affidavit of domicile 5.00

209 (16) For exemplified certificates, including signing and
 210 sealing 7.00

211 (17) For authenticated certificates, including signing and
 212 sealing 7.00

213 (18)(a) For issuing and filing a subpoena for a witness,
 214 not otherwise provided for herein (includes writing, preparing,
 215 signing, and sealing) 7.00

216 (b) For signing and sealing only 2.00

217 (19) For approving bond 8.50

218 (20) For searching of records, for each year's search 2.00

219 (21) For processing an application for a tax deed sale
 220 (includes application, sale, issuance, and preparation of tax
 221 deed, and disbursement of proceeds of sale), other than excess
 222 proceeds 60.00

223 (22) For disbursement of excess proceeds of tax deed sale,
 224 first \$100 or fraction thereof 10.00

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225 (23) Upon receipt of an application for a marriage
 226 license, for preparing and administering of oath; issuing,
 227 sealing, and recording of the marriage license; and providing a
 228 certified copy 30.00

229 (24) For solemnizing matrimony 30.00

230 (25) For sealing any court file or expungement of any
 231 record 42.00

232 (26) (a) For receiving and disbursing all restitution
 233 payments, per payment 3.50

234 (b) For receiving and disbursing all partial payments,
 235 other than restitution payments, for which an administrative
 236 processing service charge is not imposed pursuant to s. 28.246,
 237 per month 5.00

238 (c) For setting up a payment plan, a one-time
 239 administrative processing charge in lieu of a per month charge
 240 under paragraph (b) 25.00

241 (27) Postal charges incurred by the clerk of the circuit
 242 court in any mailing by certified or registered mail shall be
 243 paid by the party at whose instance the mailing is made.

244 (28) For furnishing an electronic copy of information
 245 contained in a computer database: a fee as provided for in
 246 chapter 119.

247 Section 4. Section 28.244, Florida Statutes, is amended to
 248 read:

249 28.244 Refunds.—A clerk of the circuit court or a filing
 250 officer of another office where records are filed who receives
 251 payment for services provided and thereafter determines that an
 252 overpayment has occurred shall refund to the person who made the

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253 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If
 254 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of
 255 the circuit court or a filing officer of another office where
 256 records are filed is not required to refund the amount of the
 257 overpayment unless the person who made the overpayment makes a
 258 written request.

259 Section 5. Section 28.345, Florida Statutes, is amended to
 260 read:

261 28.345 State access to records; exemption from court-
 262 related fees and charges.-

263 (1) Notwithstanding any other provision of law to the
 264 contrary, the clerk of the circuit court shall provide without
 265 charge to the state attorney, public defender, guardian ad
 266 litem, public guardian, attorney ad litem, criminal conflict and
 267 civil regional counsel, and private court-appointed counsel paid
 268 by the state, and to the authorized staff acting on behalf of
 269 each, access to and a copy of any public record. If the public
 270 record is exempt or confidential, the requesting party is only
 271 entitled by law to view or copy the exempt or confidential
 272 record if authority is provided in general law or the Florida
 273 Rules of Judicial Administration. The clerk of the circuit court
 274 may provide the requested public record in an electronic format
 275 in lieu of a paper format when the requesting entity is capable
 276 of accessing it in an electronic format. For purposes of this
 277 subsection, the term "copy of a public record" means any
 278 facsimile, replica, photograph, or other reproduction of a
 279 record.

280 (2) Notwithstanding any other ~~provision of this chapter or~~

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281 law to the contrary, judges and those court staff acting on
 282 behalf of judges, state attorneys, guardians ad litem, public
 283 guardians, attorneys ad litem, court-appointed private counsel,
 284 criminal conflict and civil regional counsel, ~~and~~ public
 285 defenders, and state agencies, while acting in their official
 286 capacity, ~~and state agencies,~~ are exempt from all court-related
 287 fees and charges assessed by the clerks of the circuit courts.

288 (3) The exemptions provided in subsections (1) and (2)
 289 apply only to state agencies and state entities and the party
 290 that an agency or entity is representing. The clerk of court
 291 shall collect the filing fees and services charges as required
 292 in this chapter from all other parties.

293 Section 6. Subsection (2) of section 50.041, Florida
 294 Statutes, is amended to read:

295 50.041 Proof of publication; uniform affidavits required.-

296 (2) Each such affidavit shall be printed upon white bond
 297 paper containing at least 25 percent rag material and shall be 8
 298 1/2 inches in width and of convenient length, not less than 5
 299 1/2 inches. A white margin of not less than 2 1/2 inches shall
 300 be left at the right side of each affidavit form and upon or in
 301 this space shall be substantially pasted a clipping which shall
 302 be a true copy of the public notice or legal advertisement for
 303 which proof is executed. Alternatively, each such affidavit may
 304 be provided in electronic rather than paper form, provided the
 305 notarization of the affidavit complies with the requirements of
 306 s. 117.021.

307 Section 7. Paragraph (d) of subsection (4) of section
 308 119.071, Florida Statutes, is amended to read:

309 119.071 General exemptions from inspection or copying of
 310 public records.—

311 (4) AGENCY PERSONNEL INFORMATION.—

312 (d)1.a. The home addresses, telephone numbers, social
 313 security numbers, and photographs of active or former law
 314 enforcement personnel, including correctional and correctional
 315 probation officers, personnel of the Department of Children and
 316 Family Services whose duties include the investigation of abuse,
 317 neglect, exploitation, fraud, theft, or other criminal
 318 activities, personnel of the Department of Health whose duties
 319 are to support the investigation of child abuse or neglect, and
 320 personnel of the Department of Revenue or local governments
 321 whose responsibilities include revenue collection and
 322 enforcement or child support enforcement; the home addresses,
 323 telephone numbers, social security numbers, photographs, and
 324 places of employment of the spouses and children of such
 325 personnel; and the names and locations of schools and day care
 326 facilities attended by the children of such personnel are exempt
 327 from s. 119.07(1).

328 b. The home addresses, telephone numbers, and photographs
 329 of firefighters certified in compliance with s. 633.35; the home
 330 addresses, telephone numbers, photographs, and places of
 331 employment of the spouses and children of such firefighters; and
 332 the names and locations of schools and day care facilities
 333 attended by the children of such firefighters are exempt from s.
 334 119.07(1).

335 c. The home addresses and telephone numbers of justices of
 336 the Supreme Court, district court of appeal judges, circuit

337 court judges, and county court judges; the home addresses,
 338 telephone numbers, and places of employment of the spouses and
 339 children of justices and judges; and the names and locations of
 340 schools and day care facilities attended by the children of
 341 justices and judges are exempt from s. 119.07(1).

342 d. The home addresses, telephone numbers, social security
 343 numbers, and photographs of current or former state attorneys,
 344 assistant state attorneys, statewide prosecutors, or assistant
 345 statewide prosecutors; the home addresses, telephone numbers,
 346 social security numbers, photographs, and places of employment
 347 of the spouses and children of current or former state
 348 attorneys, assistant state attorneys, statewide prosecutors, or
 349 assistant statewide prosecutors; and the names and locations of
 350 schools and day care facilities attended by the children of
 351 current or former state attorneys, assistant state attorneys,
 352 statewide prosecutors, or assistant statewide prosecutors are
 353 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 354 Constitution.

355 e. The home addresses and telephone numbers of general
 356 magistrates, special magistrates, judges of compensation claims,
 357 administrative law judges of the Division of Administrative
 358 Hearings, and child support enforcement hearing officers; the
 359 home addresses, telephone numbers, and places of employment of
 360 the spouses and children of general magistrates, special
 361 magistrates, judges of compensation claims, administrative law
 362 judges of the Division of Administrative Hearings, and child
 363 support enforcement hearing officers; and the names and
 364 locations of schools and day care facilities attended by the

365 children of general magistrates, special magistrates, judges of
 366 compensation claims, administrative law judges of the Division
 367 of Administrative Hearings, and child support enforcement
 368 hearing officers are exempt from s. 119.07(1) and s. 24(a), Art.
 369 I of the State Constitution if the general magistrate, special
 370 magistrate, judge of compensation claims, administrative law
 371 judge of the Division of Administrative Hearings, or child
 372 support hearing officer provides a written statement that the
 373 general magistrate, special magistrate, judge of compensation
 374 claims, administrative law judge of the Division of
 375 Administrative Hearings, or child support hearing officer has
 376 made reasonable efforts to protect such information from being
 377 accessible through other means available to the public. This
 378 sub-subparagraph is subject to the Open Government Sunset Review
 379 Act in accordance with s. 119.15, and shall stand repealed on
 380 October 2, 2013, unless reviewed and saved from repeal through
 381 reenactment by the Legislature.

382 f. The home addresses, telephone numbers, and photographs
 383 of current or former human resource, labor relations, or
 384 employee relations directors, assistant directors, managers, or
 385 assistant managers of any local government agency or water
 386 management district whose duties include hiring and firing
 387 employees, labor contract negotiation, administration, or other
 388 personnel-related duties; the names, home addresses, telephone
 389 numbers, and places of employment of the spouses and children of
 390 such personnel; and the names and locations of schools and day
 391 care facilities attended by the children of such personnel are
 392 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

393 Constitution.

394 g. The home addresses, telephone numbers, and photographs
 395 of current or former code enforcement officers; the names, home
 396 addresses, telephone numbers, and places of employment of the
 397 spouses and children of such personnel; and the names and
 398 locations of schools and day care facilities attended by the
 399 children of such personnel are exempt from s. 119.07(1) and s.
 400 24(a), Art. I of the State Constitution.

401 h. The home addresses, telephone numbers, places of
 402 employment, and photographs of current or former guardians ad
 403 litem, as defined in s. 39.820; the names, home addresses,
 404 telephone numbers, and places of employment of the spouses and
 405 children of such persons; and the names and locations of schools
 406 and day care facilities attended by the children of such persons
 407 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 408 Constitution, if the guardian ad litem provides a written
 409 statement that the guardian ad litem has made reasonable efforts
 410 to protect such information from being accessible through other
 411 means available to the public. This sub-subparagraph is subject
 412 to the Open Government Sunset Review Act in accordance with s.
 413 119.15 and shall stand repealed on October 2, 2015, unless
 414 reviewed and saved from repeal through reenactment by the
 415 Legislature.

416 i. The home addresses, telephone numbers, and photographs
 417 of current or former juvenile probation officers, juvenile
 418 probation supervisors, detention superintendents, assistant
 419 detention superintendents, juvenile justice detention officers I
 420 and II, juvenile justice detention officer supervisors, juvenile

421 justice residential officers, juvenile justice residential
 422 officer supervisors I and II, juvenile justice counselors,
 423 juvenile justice counselor supervisors, human services counselor
 424 administrators, senior human services counselor administrators,
 425 rehabilitation therapists, and social services counselors of the
 426 Department of Juvenile Justice; the names, home addresses,
 427 telephone numbers, and places of employment of spouses and
 428 children of such personnel; and the names and locations of
 429 schools and day care facilities attended by the children of such
 430 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 431 the State Constitution.

432 j. The home addresses, telephone numbers, and photographs
 433 of current or former public defenders, assistant public
 434 defenders, criminal conflict and civil regional counsel, and
 435 assistant criminal conflict and civil regional counsel; the home
 436 addresses, telephone numbers, and places of employment of the
 437 spouses and children of such defenders or counsel; and the names
 438 and locations of schools and day care facilities attended by the
 439 children of such defenders or counsel are exempt from s.
 440 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 441 sub-subparagraph is subject to the Open Government Sunset Review
 442 Act in accordance with s. 119.15 and shall stand repealed on
 443 October 2, 2015, unless reviewed and saved from repeal through
 444 reenactment by the Legislature.

445 2. An agency that is the custodian of the information
 446 specified in subparagraph 1. and that is not the employer of the
 447 officer, employee, justice, judge, or other person specified in
 448 subparagraph 1. shall maintain the exempt status of that

449 information only if the officer, employee, justice, judge, other
 450 person, or employing agency of the designated employee submits a
 451 written request for maintenance of the exemption to the
 452 custodial agency. The request must specify the document type,
 453 name, identification number, and page number of the record that
 454 contains the exempt or confidential information.

455 Section 8. Subsection (2) of section 197.542, Florida
 456 Statutes, is amended to read:

457 197.542 Sale at public auction.—

458 (2) The certificateholder has the right to bid as others
 459 present may bid, and the property shall be struck off and sold
 460 to the highest bidder. The high bidder shall post with the clerk
 461 a nonrefundable deposit of 5 percent of the bid or \$200,
 462 whichever is greater, at the time of the sale, to be applied to
 463 the sale price at the time of full payment. Notice of the
 464 deposit requirement must be posted at the auction site, and the
 465 clerk may require bidders to show their willingness and ability
 466 to post the deposit. If full payment of the final bid and of
 467 documentary stamp tax and recording fees is not made within 24
 468 hours, excluding weekends and legal holidays, the clerk shall
 469 cancel all bids, readvertise the sale as provided in this
 470 section, and pay all costs of the sale from the deposit. Any
 471 remaining funds must be applied toward the opening bid. If the
 472 property is redeemed prior to the clerk receiving full payment
 473 for the issuance of a tax deed, in order to receive a refund of
 474 the deposit described in this subsection, the high bidder must
 475 submit a request for such refund in writing to the clerk. Upon
 476 receipt of the refund request, the clerk shall refund the cash

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477 deposit. The clerk may refuse to recognize the bid of any person
478 who has previously bid and refused, for any reason, to honor
479 such bid.

480 Section 9. This act shall take effect upon becoming 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: Government Operations
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 307-454 and insert:

7 Section 7. Subsections (2) and (3) of section 119.0714,
8 Florida Statutes, are amended to read:

9 119.0714 Court files; court records; official records.—

10 (2) COURT RECORDS.—

11 (a) 1. Until January 1, 2012, if a social security number
12 or a bank account, debit, charge, or credit card number is
13 included in a court file, such number may be included as part of
14 the court record available for public inspection and copying
15 unless redaction is requested by the holder of such number or by
16 the holder's attorney or legal guardian.

17 2. ~~(b)~~ A request for redaction must be a signed, legibly
18 written request specifying the case name, case number, document
19 heading, and page number. The request must be delivered by mail,

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20 facsimile, electronic transmission, or in person to the clerk of
21 the court. The clerk of the court does not have a duty to
22 inquire beyond the written request to verify the identity of a
23 person requesting redaction.

24 ~~3.(e)~~ A fee may not be charged for the redaction of a
25 social security number or a bank account, debit, charge, or
26 credit card number pursuant to such request.

27 ~~4.(d)~~ The clerk of the court has no liability for the
28 inadvertent release of social security numbers, or bank account,
29 debit, charge, or credit card numbers, unknown to the clerk of
30 the court in court records filed on or before January 1, 2012.

31 ~~5.a.(e)1.~~ On January 1, 2012, and thereafter, the clerk of
32 the court must keep social security numbers confidential and
33 exempt as provided for in s. 119.071(5)(a), and bank account,
34 debit, charge, and credit card numbers exempt as provided for in
35 s. 119.071(5)(b), without any person having to request
36 redaction.

37 ~~b.2.~~ Section 119.071(5)(a)7. and 8. does not apply to the
38 clerks of the court with respect to court records.

39 (b) A request for maintenance of a public record exemption
40 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
41 specify the document type, name, identification number, and page
42 number of the court record that contains the exempt information.

43 (3) OFFICIAL RECORDS.—

44 (a)1. Any person who prepares or files a record for
45 recording in the official records as provided in chapter 28 may
46 not include in that record a social security number or a bank

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47 account, debit, charge, or credit card number unless otherwise
48 expressly required by law.

49 ~~2.a.(b)1.~~ If a social security number or a bank account,
50 debit, charge, or credit card number is included in an official
51 record, such number may be made available as part of the
52 official records available for public inspection and copying
53 unless redaction is requested by the holder of such number or by
54 the holder's attorney or legal guardian.

55 ~~b.2.~~ If such record is in electronic format, on January 1,
56 2011, and thereafter, the county recorder must use his or her
57 best effort, as provided in paragraph (h), to keep social
58 security numbers confidential and exempt as provided for in s.
59 119.071(5)(a), and to keep complete bank account, debit, charge,
60 and credit card numbers exempt as provided for in s.
61 119.071(5)(b), without any person having to request redaction.

62 ~~c.3.~~ Section 119.071(5)(a)7. and 8. does not apply to the
63 county recorder with respect to official records.

64 ~~3.(e)~~ The holder of a social security number or a bank
65 account, debit, charge, or credit card number, or the holder's
66 attorney or legal guardian, may request that a county recorder
67 redact from an image or copy of an official record placed on a
68 county recorder's publicly available Internet website or on a
69 publicly available Internet website used by a county recorder to
70 display public records, or otherwise made electronically
71 available to the public, his or her social security number or
72 bank account, debit, charge, or credit card number contained in
73 that official record.

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74 ~~4.(d)~~ A request for redaction must be a signed, legibly
75 written request and must be delivered by mail, facsimile,
76 electronic transmission, or in person to the county recorder.
77 The request must specify the identification page number of the
78 record that contains the number to be redacted.

79 ~~5.(e)~~ The county recorder does not have a duty to inquire
80 beyond the written request to verify the identity of a person
81 requesting redaction.

82 ~~6.(f)~~ A fee may not be charged for redacting a social
83 security number or a bank account, debit, charge, or credit card
84 number.

85 ~~7.(g)~~ A county recorder shall immediately and
86 conspicuously post signs throughout his or her offices for
87 public viewing, and shall immediately and conspicuously post on
88 any Internet website or remote electronic site made available by
89 the county recorder and used for the ordering or display of
90 official records or images or copies of official records, a
91 notice stating, in substantially similar form, the following:

92 ~~a.1.~~ On or after October 1, 2002, any person preparing or
93 filing a record for recordation in the official records may not
94 include a social security number or a bank account, debit,
95 charge, or credit card number in such document unless required
96 by law.

97 ~~b.2.~~ Any person has a right to request a county recorder
98 to remove from an image or copy of an official record placed on
99 a county recorder's publicly available Internet website or on a
100 publicly available Internet website used by a county recorder to
101 display public records, or otherwise made electronically

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102 available to the general public, any social security number
103 contained in an official record. Such request must be made in
104 writing and delivered by mail, facsimile, or electronic
105 transmission, or delivered in person, to the county recorder.
106 The request must specify the identification page number that
107 contains the social security number to be redacted. A fee may
108 not be charged for the redaction of a social security number
109 pursuant to such a request.

110 ~~8.(h)~~ If the county recorder accepts or stores official
111 records in an electronic format, the county recorder must use
112 his or her best efforts to redact all social security numbers
113 and bank account, debit, charge, or credit card numbers from
114 electronic copies of the official record. The use of an
115 automated program for redaction shall be deemed to be the best
116 effort in performing the redaction and shall be deemed in
117 compliance with the requirements of this subsection.

118 ~~9.(i)~~ The county recorder is not liable for the
119 inadvertent release of social security numbers, or bank account,
120 debit, charge, or credit card numbers, filed with the county
121 recorder.

122 (b) A request for maintenance of a public record exemption
123 in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must
124 specify the document type, name, identification number, and page
125 number of the official record that contains the exempt
126 information.

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

Remove line 19 and insert:
publication affidavits; amending s. 119.0714, F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 541 Administrative Procedures
SPONSOR(S): Brandes
TIED BILLS: IDEN./SIM. BILLS: SB 1084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Meadows <i>JM</i>	Williamson <i>KAW</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill revises provisions with respect to the *Florida Administrative Code* and the *Florida Administrative Weekly*.

The bill provides that the online version of the *Florida Administrative Code* is the official version for the state. The Department of State is no longer required to publish a printed version of the *Florida Administrative Code*.

In addition, the bill changes the name of the *Florida Administrative Weekly* to the *Florida Administrative Register*. The online version of the *Florida Administrative Register* is the official version. The Department of State may no longer provide free print copies of the *Florida Administrative Register* to federal and state government entities. A printed copy of the *Florida Administrative Register* may be made available on an annual subscription basis.

The bill provides that the Department of State is no longer responsible for reviewing agency submissions to the *Florida Administrative Register* for formatting, grammatical, or typographical errors. Agencies are responsible for proofreading their documents and assume full responsibility for the accuracy of documents submitted.

Finally, the bill directs the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term *Florida Administrative Register* for the term *Florida Administrative Weekly* throughout the Florida Statutes.

The bill appears to have an unknown fiscal impact on state government.

The bill provides an effective date of October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The *Florida Administrative Code* (FAC) is the official compilation of administrative rules for the State of Florida. The Department of State (DOS or department) oversees the publishing of the FAC and the monthly supplements. The online, unofficial version of the FAC is updated weekly on the department's rulemaking website.

DOS is required to publish the FAC, which contains all rules adopted by agencies, together with references to rulemaking authority and history notes.¹ The FAC must be supplemented at least monthly.² DOS currently contracts with LexisNexis for the printing of the FAC.³ Current law provides that the printed version of the FAC is the official version.⁴

Under current law, DOS is required to publish notices and various other materials filed by the state's administrative agencies in the *Florida Administrative Weekly* (FAW).^{5,6} The FAW must contain:

- Notice of adoption of, and an index to, all rules filed during the preceding week;
- All notices required by s. 120.54(3)(a), F.S., concerning agency rulemaking, showing the text of all rules proposed for consideration or a reference to the location in the FAW where the text of the proposed rules is published;
- All notices of public meetings, hearings, and workshops, including a statement of the manner in which a copy of the agenda may be obtained;
- A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules;
- Notice of petitions for declaratory statements or administrative determinations;
- A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week; and
- Any other material required or authorized by law or deemed useful by the department.⁷

Responsibility for the grammatical editing of the FAW is statutorily assigned to DOS.⁸ Additionally, DOS is required to adopt rules prescribing the style and form required for rules submitted for filing and establishing the form for rule certification.⁹

DOS contracts with LexisNexis for publication of the FAW in a printed format.¹⁰ The FAW is published on Fridays and distributed for free to administrative agencies, courts, libraries, law schools, and legislative offices.^{11,12} According to DOS, the FAW has approximately 191 paid subscribers, who pay

¹ Section 120.55(1)(a)1., F.S.

² *Id.*

³ Information provided by telephone on December 9, 2011, by Mr. Pierce Schuessler, Legislative Affairs Director, Department of State.

⁴ Section 120.55(1)(a)1., F.S.

⁵ Section 120.55(1)(b), F.S.

⁶ According to DOS, approximately 300 entities in the state publish notices in the Florida Administrative Weekly. These entities include state agencies, other units of state and local government, and nongovernmental entities.

⁷ Section 120.55(1)(b), F.S.

⁸ Section 120.55(1)(e), F.S.

⁹ Section 120.55(1)(d), F.S.

¹⁰ Information provided by telephone on December 9, 2011, by Mr. Pierce Schuessler, Legislative Affairs Director, Department of State.

¹¹ Section 120.55(7)(a)1., F.S., requires the department to furnish the FAW, without charge and upon request, as follows:

an annual subscription fee of \$307 per year.¹³ In addition to producing the paper version of the FAW, DOS posts copies of the FAW in Adobe Acrobat Portable Document Format (PDF) at www.flrules.org, which may be accessed by the public for free.¹⁴

Current law requires all fees and moneys collected by DOS under the Administrative Procedure Act (APA)¹⁵ to be deposited in the Records Management Trust Fund for the purpose of paying for the publication of the FAC and FAW, and for associated costs incurred by the department in administering the APA's requirements.¹⁶ The unencumbered balance at the beginning of each fiscal year, which exceeds \$300,000, must be transferred to the General Revenue Fund.¹⁷

The following fees and moneys were collected by DOS under the APA in FY 10-11:

- DOS collected \$552,563 for the space rate, also known as the line charge. The current charge is \$1.24 per line.
- DOS collected \$51,238 for royalties from the sale of the FAC. Currently, copies of the FAC are sold by LexisNexis. The majority of revenues from the sale of the FAC are retained by the company as compensation for printing the code. DOS receives a small amount in royalties.¹⁸

Subscription fees charged to FAW subscribers are retained by the publisher as compensation for printing the FAW.¹⁹

Effect of Proposed Changes

The bill revises provisions with respect to the *Florida Administrative Code* and the *Florida Administrative Weekly*.

Florida Administrative Code

The bill provides that the online version of the FAC is the official version for the state. In addition, DOS is no longer required to publish a print version of the FAC. DOS may contract for the publication of a print version of the FAC, but the print version is not the official publication.

The bill also requires that adopted rules and material incorporated by reference be filed in an electronic format.

Florida Administrative Weekly

The bill changes the name of that the *Florida Administrative Weekly* to the *Florida Administrative Register*. The bill provides that the online version of the *Florida Administrative Register* (FAR) is the

-
- One subscription to each federal and state court having jurisdiction over the residents of the state, the Legislative Library, each state university library, the State Library, each depository library designated pursuant to s. 257.05, F.S., and each standing committee of the Senate and House of Representatives and each state legislator;
 - Two subscriptions to each state department;
 - Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House of Representatives; and
 - Ten subscriptions to the committee.

¹² As of April 15, 2011, there are 145 subscriptions that are comped for federal, state, and local government entities. Information provided by electronic mail on December 16, 2011, by Mr. Pierce Schuessler, Legislative Affairs Director, Department of State. (On file with the Government Operations Subcommittee.)

¹³ Information provided by telephone on December 16, 2011, by Mr. Pierce Schuessler, Legislative Affairs Director, Department of State.

¹⁴ Section 120.55(2), F.S.

¹⁵ Chapter 120, F.S.

¹⁶ Section 120.55(8)(a), F.S.

¹⁷ Section 120.55(8)(b), F.S.

¹⁸ Information provided by telephone on December 16, 2011, by Mr. Pierce Schuessler, Legislative Affairs Director, Department of State.

¹⁹ *Id.*

official version, and is available at www.flrules.org. DOS must continually revise the online version of the FAR, rather than on a weekly basis. The bill removes the requirement that the internet website for FAR must contain notices of adoption of, and an index to, all rules filed during the preceding week. It also removes the requirement that the internet website include a cumulative list of all rules that have been filed but not filed for adoption.

DOS may contract with a publishing firm to provide a print version of the FAR, but the print version is not the official publication. DOS may no longer provide free print copies of the FAR to federal and state government entities. A printed copy of the FAR may be made available on an annual subscription basis.

In addition, the bill provides that DOS is not responsible for reviewing agency submissions to the FAR for formatting and numbering requirements, grammatical errors, and typographical errors. The agencies are responsible for proofreading documents before submitting them electronically in a word processing format. The submitting agency assumes full responsibility for the document's accuracy when submitted.

Finally, the bill directs the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term *Florida Administrative Register* for the term *Florida Administrative Weekly* throughout the Florida Statutes.

B. SECTION DIRECTORY:

Section 1 amends s. 120.55, F.S., to revise provisions with respect to the revision and publication of the *Florida Administrative Code* and the *Florida Administrative Weekly*.

Section 2 provides a directive to the Division of Statutory Revision to prepare a reviser's bill.

Section 3 provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Unknown.

2. Expenditures:

Unknown, the bill may cause an increase in workload for staff of the Department of State and other state agencies.

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 affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill expands the current rule-making authority for the Department of State. It authorizes the department to prescribe by rule the electronic form for agencies to file adopted rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

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1 A bill to be entitled
 2 An act relating to administrative procedures; amending
 3 s. 120.55, F.S.; revising provisions with respect to
 4 the revision and publication of the Florida
 5 Administrative Code to provide that the Department of
 6 State is not required to publish a printed version of
 7 the code but may contract with a publishing firm for a
 8 printed publication; providing that the electronic
 9 version of the code is the official compilation of the
 10 administrative rules of the state; providing for
 11 adopted rules and material incorporated by reference
 12 to be filed in electronic forms; renaming the "Florida
 13 Administrative Weekly" as the "Florida Administrative
 14 Register"; requiring a continuous revision and
 15 publication of the Florida Administrative Register on
 16 an Internet website managed by the Department of
 17 State; revising content and website search
 18 requirements; deleting a requirement to provide
 19 printed copies of the Florida Administrative Register
 20 to certain federal and state entities; providing a
 21 directive to the Division of Statutory Revision;
 22 providing an effective date.
 23
 24 Be It Enacted by the Legislature of the State of Florida:
 25
 26 Section 1. Section 120.55, Florida Statutes, is amended to
 27 read:
 28 120.55 Publication.—

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29 (1) The Department of State shall:
 30 (a)1. Through a continuous revision and publication
 31 system, compile and publish electronically, on an Internet
 32 website managed by the department, the "Florida Administrative
 33 Code." The Florida Administrative Code shall contain all rules
 34 adopted by each agency, citing the grant of rulemaking authority
 35 and the specific law implemented pursuant to which each rule was
 36 adopted, all history notes as authorized in s. 120.545(7),
 37 complete indexes to all rules contained in the code, and any
 38 other material required or authorized by law or deemed useful by
 39 the department. The electronic code shall display each rule
 40 chapter currently in effect in browse mode and allow full text
 41 search of the code and each rule chapter. The department ~~shall~~
 42 ~~publish a printed version of the Florida Administrative Code and~~
 43 may contract with a publishing firm for a ~~such~~ printed
 44 publication; however, the department shall retain responsibility
 45 for the code as provided in this section. ~~Supplementation of the~~
 46 ~~printed code shall be made as often as practicable, but at least~~
 47 ~~monthly.~~ The electronic ~~printed~~ publication shall be the
 48 official compilation of the administrative rules of this state.
 49 The Department of State shall retain the copyright over the
 50 Florida Administrative Code.
 51 2. Rules general in form but applicable to only one school
 52 district, community college district, or county, or a part
 53 thereof, or state university rules relating to internal
 54 personnel or business and finance shall not be published in the
 55 Florida Administrative Code. Exclusion from publication in the
 56 Florida Administrative Code shall not affect the validity or

57 effectiveness of such rules.

58 3. At the beginning of the section of the code dealing
59 with an agency that files copies of its rules with the
60 department, the department shall publish the address and
61 telephone number of the executive offices of each agency, the
62 manner by which the agency indexes its rules, a listing of all
63 rules of that agency excluded from publication in the code, and
64 a statement as to where those rules may be inspected.

65 4. Forms shall not be published in the Florida
66 Administrative Code; but any form which an agency uses in its
67 dealings with the public, along with any accompanying
68 instructions, shall be filed with the committee before it is
69 used. Any form or instruction which meets the definition of
70 "rule" provided in s. 120.52 shall be incorporated by reference
71 into the appropriate rule. The reference shall specifically
72 state that the form is being incorporated by reference and shall
73 include the number, title, and effective date of the form and an
74 explanation of how the form may be obtained. Each form created
75 by an agency which is incorporated by reference in a rule notice
76 of which is given under s. 120.54(3)(a) after December 31, 2007,
77 must clearly display the number, title, and effective date of
78 the form and the number of the rule in which the form is
79 incorporated.

80 5. The department shall allow adopted rules and material
81 incorporated by reference to be filed in electronic form as
82 prescribed by department rule. When a rule is filed for adoption
83 with incorporated material in electronic form, the department's
84 publication of the Florida Administrative Code on its Internet

85 | website must contain a hyperlink from the incorporating
 86 | reference in the rule directly to that material. The department
 87 | may not allow hyperlinks from rules in the Florida
 88 | Administrative Code to any material other than that filed with
 89 | and maintained by the department, but may allow hyperlinks to
 90 | incorporated material maintained by the department from the
 91 | adopting agency's website or other sites.

92 | (b) Electronically publish on an Internet website managed
 93 | by the department a continuous revision and ~~weekly~~ publication
 94 | entitled the "Florida Administrative Register ~~Weekly~~," which
 95 | shall serve as the official ~~Internet website for such~~
 96 | publication and must contain:

97 | ~~1. Notice of adoption of, and an index to, all rules filed~~
 98 | ~~during the preceding week.~~

99 | ~~1.2.~~ All notices required by s. 120.54(3)(a), showing the
 100 | text of all rules proposed for consideration.

101 | ~~2.3.~~ All notices of public meetings, hearings, and
 102 | workshops conducted in accordance with ~~the provisions of s.~~
 103 | 120.525, including a statement of the manner in which a copy of
 104 | the agenda may be obtained.

105 | ~~3.4.~~ A notice of each request for authorization to amend
 106 | or repeal an existing uniform rule or for the adoption of new
 107 | uniform rules.

108 | ~~4.5.~~ Notice of petitions for declaratory statements or
 109 | administrative determinations.

110 | ~~5.6.~~ A summary of each objection to any rule filed by the
 111 | Administrative Procedures Committee ~~during the preceding week.~~

112 | ~~7. A cumulative list of all rules that have been proposed~~

113 | ~~but not filed for adoption.~~

114 | 6.8. Any other material required or authorized by law or
115 | deemed useful by the department.

116 |
117 | The department may contract with a publishing firm for a printed
118 | publication shall publish a printed version of the Florida
119 | Administrative Register Weekly and make copies available on an
120 | annual subscription basis. ~~The department may contract with a~~
121 | ~~publishing firm for printed publication of the Florida~~
122 | ~~Administrative Weekly.~~

123 | ~~(c) Review notices for compliance with format and~~
124 | ~~numbering requirements before publishing them on the Florida~~
125 | ~~Administrative Weekly Internet website.~~

126 | (c)~~(d)~~ Prescribe by rule the style and form required for
127 | rules, notices, and other materials submitted for filing.

128 | ~~(e) Correct grammatical, typographical, and like errors~~
129 | ~~not affecting the construction or meaning of the rules, after~~
130 | ~~having obtained the advice and consent of the appropriate~~
131 | ~~agency, and insert history notes.~~

132 | (d)~~(f)~~ Charge each agency using the Florida Administrative
133 | Register Weekly a space rate to cover the costs related to the
134 | Florida Administrative Register Weekly and the Florida
135 | Administrative Code.

136 | (e)~~(g)~~ Maintain a permanent record of all notices
137 | published in the Florida Administrative Register Weekly.

138 | (2) The Florida Administrative Register Weekly Internet
139 | website must allow users to:

140 | (a) Search for notices by type, publication date, rule

141 | number, word, subject, and agency.~~†~~

142 | (b) Search a database that makes available all notices
143 | published on the website for a period of at least 5 years.~~†~~

144 | (c) Subscribe to an automated e-mail notification of
145 | selected notices to be sent out before or concurrently with
146 | ~~weekly~~ publication of the ~~printed and~~ electronic Florida
147 | Administrative Register ~~Weekly~~. Such notification must include
148 | in the text of the e-mail a summary of the content of each
149 | notice.~~†~~

150 | (d) View agency forms and other materials submitted to the
151 | department in electronic form and incorporated by reference in
152 | proposed rules.~~† and~~

153 | (e) Comment on proposed rules.

154 | (3) Publication of material required by paragraph (1)(b)
155 | on the Florida Administrative Register ~~Weekly~~ Internet website
156 | does not preclude publication of such material on an agency's
157 | website or by other means.

158 | (4) Each agency shall provide copies of its rules upon
159 | request, with citations to the grant of rulemaking authority and
160 | the specific law implemented for each rule.

161 | (5) Any publication of a proposed rule promulgated by an
162 | agency, whether published in the Florida Administrative Register
163 | ~~Code~~ or elsewhere, shall include, along with the rule, the name
164 | of the person or persons originating such rule, the name of the
165 | agency head who approved the rule, and the date upon which the
166 | rule was approved.

167 | (6) Access to the Florida Administrative Register ~~Weekly~~
168 | Internet website and its contents, including the e-mail

169 notification service, shall be free for the public.

170 ~~(7) (a) Each year the Department of State shall furnish the~~
 171 ~~Florida Administrative Weekly, without charge and upon request,~~
 172 ~~as follows:~~

173 ~~1. One subscription to each federal and state court having~~
 174 ~~jurisdiction over the residents of the state; the Legislative~~
 175 ~~Library; each state university library; the State Library; each~~
 176 ~~depository library designated pursuant to s. 257.05; and each~~
 177 ~~standing committee of the Senate and House of Representatives~~
 178 ~~and each state legislator.~~

179 ~~2. Two subscriptions to each state department.~~

180 ~~3. Three subscriptions to the library of the Supreme Court~~
 181 ~~of Florida, the library of each state district court of appeal,~~
 182 ~~the division, the library of the Attorney General, each law~~
 183 ~~school library in Florida, the Secretary of the Senate, and the~~
 184 ~~Clerk of the House of Representatives.~~

185 ~~4. Ten subscriptions to the committee.~~

186 ~~(b) The Department of State shall furnish one copy of the~~
 187 ~~Florida Administrative Weekly, at no cost, to each clerk of the~~
 188 ~~circuit court and each state department, for posting for public~~
 189 ~~inspection.~~

190 (7) (8) (a) All fees and moneys collected by the Department
 191 of State under this chapter shall be deposited in the Records
 192 Management Trust Fund for the purpose of paying for costs
 193 incurred by the department in carrying out this chapter.

194 (b) The unencumbered balance in the Records Management
 195 Trust Fund for fees collected pursuant to this chapter may not
 196 exceed \$300,000 at the beginning of each fiscal year, and any

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197 excess shall be transferred to the General Revenue Fund.

198 Section 2. The Division of Statutory Revision of the
 199 Office of Legislative Services is requested to prepare a
 200 reviser's bill for the 2013 Regular Session of the Legislature
 201 to substitute the term "Florida Administrative Register" for the
 202 term "Florida Administrative Weekly" throughout the Florida
 203 Statutes."

204 Section 3. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 629 Pub. Rec./Agency Personnel Information/Dates of Birth

SPONSOR(S): Hooper

TIED BILLS: IDEN./SIM. BILLS: SB 916

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Naf <i>ln</i>	Williamson <i>WAW</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

Current law provides public record exemptions for identification and location information of certain current and former public employees and their spouses and children. Examples of protected information include:

- Home addresses and telephone numbers of the public employees;
- Home addresses, telephone numbers, and places of employment of spouses and children of the public employees; and
- Names and locations of schools and day care facilities attended by children of the public employees.

The bill expands the public record exemptions for such public employees to include the dates of birth of the public employees and of their spouses and children.

The bill also creates a definition for "telephone numbers" and specifies that the information of sworn and civilian law enforcement personnel and their spouses and children is exempt from public record requirements.

The bill provides for repeal of the exemptions on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill expands current public record exemptions; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Public Record Exemptions for Identification and Location Information

Current law provides public record exemptions for identification and location information of certain current and former public employees and their spouses and children.³ Public employees covered by these exemptions include:

- Law enforcement, including correctional, and specified investigatory personnel;⁴
- Firefighters;⁵
- Justices and judges;⁶
- Local and statewide prosecuting attorneys;⁷
- Magistrates, administrative law judges, and child support hearing officers;⁸
- Local government agency and water management district human resources administrators;⁹
- Code enforcement officers;¹⁰
- Guardians ad litem;¹¹
- Specified Department of Juvenile Justice Personnel;¹² and

¹ Section 24(c), Art. I of the State Constitution.

² Section 119.15, F.S.

³ See s. 119.071(4)(d), F.S.

⁴ See s. 119.071(4)(d)1.a., F.S.

⁵ See s. 119.071(4)(d)1.b., F.S.

⁶ See s. 119.071(4)(d)1.c., F.S.

⁷ See s. 119.071(4)(d)1.d., F.S.

⁸ See s. 119.071(4)(d)1.e., F.S. This exemption applies only if the magistrate, administrative law judge, or child support hearing officer provides a written statement that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public.

⁹ See s. 119.071(4)(d)1.f., F.S.

¹⁰ See s. 119.071(4)(d)1.g., F.S.

¹¹ See s. 119.071(4)(d)1.h., F.S. This exemption applies only if the guardian ad litem provides a written statement that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public.

- Public defenders and criminal conflict and civil regional counsel.¹³

Although the types of exempt information vary, the following information is exempt¹⁴ from public record requirements for all the above-listed public employees:

- Home addresses and telephone numbers¹⁵ of the public employees;
- Home addresses, telephone numbers, and places of employment of the spouses and children of the public employees; and
- Names and locations of schools and day care facilities attended by the children of the public employees.

If exempt information is held by an agency¹⁶ that is not the employer of the public employee, the public employee must submit a written request to that agency to maintain the public record exemption.¹⁷

Effect of Bill

The bill expands the public record exemptions for identification and location information of certain public employees to include dates of birth of the public employees and of their spouses and children.

The bill also specifies that the public record exemption for identification and location information of law enforcement personnel applies to sworn and civilian law enforcement personnel.

The bill defines the term “telephone numbers” to include home telephone numbers; personal cellular telephone numbers; personal pager telephone numbers; telephone numbers associated with personal communications devices; and telephone numbers associated with agency cellular telephones, pagers, or other personal communications devices issued or assigned to agency personnel. It specifies that the term does *not* include agency contact telephone numbers that the agency commonly makes available to the general public.

The bill provides for repeal of the exemptions on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.¹⁸

B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., relating to public record exemptions for identification and location information of certain public employees.

Section 2 provides a public necessity statement.

Section 3 amends s. 409.2577, F.S., to conform a cross-reference.

Section 4 provides an effective date of October 1, 2012.

¹² See s. 119.071(4)(d)1.i., F.S.

¹³ See s. 119.071(4)(d)1.j, F.S.

¹⁴ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 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 the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

¹⁵ “Telephone number” is not currently defined in these public record exemptions.

¹⁶ Section 119.011(2), F.S., defines “agency” to mean 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 this chapter, 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.

¹⁷ Section 119.071(4)(d)2., F.S.

¹⁸ Section 24(c), Art. I of the State Constitution.

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:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could create a minimal fiscal impact on agencies, because staff responsible for complying with public records request could require training related to the changes in the public record exemptions. The costs would be absorbed, however, as they are part of the day-to-day responsibilities of the agency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This 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 raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill expands current public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands current public record exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution, requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill's public necessity statement provides that telephone and pager numbers must be protected to avoid identification and location of the public employees and their spouses and children, but does not explain how an agency telephone or pager number could lead to such identification and location.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not state that the expanded public record exemptions apply retroactively. The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively.¹⁹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

¹⁹ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d 373 (Fla. 2001).

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; including dates of birth within the
 4 types of personal identifying information of specified
 5 agency personnel and the spouses and children of such
 6 personnel that are exempt from public records
 7 requirements under s. 119.071(4)(e), F.S.; clarifying
 8 an exemption for personal identifying information of
 9 active or former law enforcement personnel and the
 10 spouses and children thereof; providing for future
 11 legislative review and repeal of the exemptions;
 12 defining the term "telephone numbers"; providing a
 13 statement of public necessity; amending s. 409.2577,
 14 F.S.; conforming a cross-reference; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (4) of section 119.071, Florida
 20 Statutes, is amended to read:

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

23 (4) AGENCY PERSONNEL INFORMATION.—

24 (a) The social security numbers of all current and former
 25 agency employees which numbers are held by the employing agency
 26 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 27 I of the State Constitution. This paragraph is subject to the
 28 Open Government Sunset Review Act in accordance with s. 119.15

29 and shall stand repealed on October 2, 2014, unless reviewed and
 30 saved from repeal through reenactment by the Legislature.

31 (b)1. Medical information pertaining to a prospective,
 32 current, or former officer or employee of an agency which, if
 33 disclosed, would identify that officer or employee is exempt
 34 from s. 119.07(1) and s. 24(a), Art. I of the State
 35 Constitution. However, such information may be disclosed if the
 36 person to whom the information pertains or the person's legal
 37 representative provides written permission or pursuant to court
 38 order.

39 2.a. Personal identifying information of a dependent child
 40 of a current or former officer or employee of an agency, which
 41 dependent child is insured by an agency group insurance plan, is
 42 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 43 Constitution. For purposes of this exemption, "dependent child"
 44 has the same meaning as in s. 409.2554.

45 b. This exemption is remedial in nature and applies to
 46 personal identifying information held by an agency before, on,
 47 or after the effective date of this exemption.

48 c. This subparagraph is subject to the Open Government
 49 Sunset Review Act in accordance with s. 119.15 and shall stand
 50 repealed on October 2, 2014, unless reviewed and saved from
 51 repeal through reenactment by the Legislature.

52 (c) Any information revealing undercover personnel of any
 53 criminal justice agency is exempt from s. 119.07(1) and s.
 54 24(a), Art. I of the State Constitution.

55 (d) For purposes of this subsection, the term "telephone
 56 numbers" includes home telephone numbers; personal cellular

57 telephone numbers; personal pager telephone numbers; telephone
 58 numbers associated with personal communications devices; and
 59 telephone numbers associated with agency cellular telephones,
 60 paggers, or other personal communications devices issued or
 61 assigned to agency personnel in furtherance of their duties. The
 62 term "telephone numbers" does not include agency contact
 63 telephone numbers that the agency commonly makes available to
 64 the general public.

65 (e)~~(d)~~1.a. The home addresses, telephone numbers, social
 66 security numbers, dates of birth, and photographs of active or
 67 former sworn or civilian law enforcement personnel, including
 68 correctional and correctional probation officers, personnel of
 69 the Department of Children and Family Services whose duties
 70 include the investigation of abuse, neglect, exploitation,
 71 fraud, theft, or other criminal activities, personnel of the
 72 Department of Health whose duties are to support the
 73 investigation of child abuse or neglect, and personnel of the
 74 Department of Revenue or local governments whose
 75 responsibilities include revenue collection and enforcement or
 76 child support enforcement; the home addresses, telephone
 77 numbers, social security numbers, photographs, dates of birth,
 78 and places of employment of the spouses and children of such
 79 personnel; and the names and locations of schools and day care
 80 facilities attended by the children of such personnel are exempt
 81 from s. 119.07(1). This sub-subparagraph is subject to the Open
 82 Government Sunset Review Act in accordance with s. 119.15 and
 83 shall stand repealed on October 2, 2017, unless reviewed and
 84 saved from repeal through reenactment by the Legislature.

85 b. The home addresses, telephone numbers, dates of birth,
 86 and photographs of firefighters certified in compliance with s.
 87 633.35; the home addresses, telephone numbers, photographs,
 88 dates of birth, and places of employment of the spouses and
 89 children of such firefighters; and the names and locations of
 90 schools and day care facilities attended by the children of such
 91 firefighters are exempt from s. 119.07(1). This sub-subparagraph
 92 is subject to the Open Government Sunset Review Act in
 93 accordance with s. 119.15 and shall stand repealed on October 2,
 94 2017, unless reviewed and saved from repeal through reenactment
 95 by the Legislature.

96 c. The home addresses, dates of birth, and telephone
 97 numbers of justices of the Supreme Court, district court of
 98 appeal judges, circuit court judges, and county court judges;
 99 the home addresses, telephone numbers, dates of birth, and
 100 places of employment of the spouses and children of justices and
 101 judges; and the names and locations of schools and day care
 102 facilities attended by the children of justices and judges are
 103 exempt from s. 119.07(1). This sub-subparagraph is subject to
 104 the Open Government Sunset Review Act in accordance with s.
 105 119.15 and shall stand repealed on October 2, 2017, unless
 106 reviewed and saved from repeal through reenactment by the
 107 Legislature.

108 d. The home addresses, telephone numbers, social security
 109 numbers, dates of birth, and photographs of current or former
 110 state attorneys, assistant state attorneys, statewide
 111 prosecutors, or assistant statewide prosecutors; the home
 112 addresses, telephone numbers, social security numbers,

113 | photographs, dates of birth, and places of employment of the
 114 | spouses and children of current or former state attorneys,
 115 | assistant state attorneys, statewide prosecutors, or assistant
 116 | statewide prosecutors; and the names and locations of schools
 117 | and day care facilities attended by the children of current or
 118 | former state attorneys, assistant state attorneys, statewide
 119 | prosecutors, or assistant statewide prosecutors are exempt from
 120 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
 121 | This sub-subparagraph is subject to the Open Government Sunset
 122 | Review Act in accordance with s. 119.15 and shall stand repealed
 123 | on October 2, 2017, unless reviewed and saved from repeal
 124 | through reenactment by the Legislature.

125 | e. The home addresses, dates of birth, and telephone
 126 | numbers of general magistrates, special magistrates, judges of
 127 | compensation claims, administrative law judges of the Division
 128 | of Administrative Hearings, and child support enforcement
 129 | hearing officers; the home addresses, telephone numbers, dates
 130 | of birth, and places of employment of the spouses and children
 131 | of general magistrates, special magistrates, judges of
 132 | compensation claims, administrative law judges of the Division
 133 | of Administrative Hearings, and child support enforcement
 134 | hearing officers; and the names and locations of schools and day
 135 | care facilities attended by the children of general magistrates,
 136 | special magistrates, judges of compensation claims,
 137 | administrative law judges of the Division of Administrative
 138 | Hearings, and child support enforcement hearing officers are
 139 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 140 | Constitution if the general magistrate, special magistrate,

141 judge of compensation claims, administrative law judge of the
 142 Division of Administrative Hearings, or child support hearing
 143 officer provides a written statement that the general
 144 magistrate, special magistrate, judge of compensation claims,
 145 administrative law judge of the Division of Administrative
 146 Hearings, or child support hearing officer has made reasonable
 147 efforts to protect such information from being accessible
 148 through other means available to the public. This sub-
 149 subparagraph is subject to the Open Government Sunset Review Act
 150 in accordance with s. 119.15, and shall stand repealed on
 151 October 2, 2017 ~~2013~~, unless reviewed and saved from repeal
 152 through reenactment by the Legislature.

153 f. The home addresses, telephone numbers, dates of birth,
 154 and photographs of current or former human resource, labor
 155 relations, or employee relations directors, assistant directors,
 156 managers, or assistant managers of any local government agency
 157 or water management district whose duties include hiring and
 158 firing employees, labor contract negotiation, administration, or
 159 other personnel-related duties; the names, home addresses,
 160 telephone numbers, dates of birth, and places of employment of
 161 the spouses and children of such personnel; and the names and
 162 locations of schools and day care facilities attended by the
 163 children of such personnel are exempt from s. 119.07(1) and s.
 164 24(a), Art. I of the State Constitution. This sub-subparagraph
 165 is subject to the Open Government Sunset Review Act in
 166 accordance with s. 119.15 and shall stand repealed on October 2,
 167 2017, unless reviewed and saved from repeal through reenactment
 168 by the Legislature.

169 g. The home addresses, telephone numbers, dates of birth,
 170 and photographs of current or former code enforcement officers;
 171 the names, home addresses, telephone numbers, dates of birth,
 172 and places of employment of the spouses and children of such
 173 personnel; and the names and locations of schools and day care
 174 facilities attended by the children of such personnel are exempt
 175 from s. 119.07(1) and s. 24(a), Art. I of the State
 176 Constitution. This sub-subparagraph is subject to the Open
 177 Government Sunset Review Act in accordance with s. 119.15 and
 178 shall stand repealed on October 2, 2017, unless reviewed and
 179 saved from repeal through reenactment by the Legislature.

180 h. The home addresses, telephone numbers, places of
 181 employment, dates of birth, and photographs of current or former
 182 guardians ad litem, as defined in s. 39.820; the names, home
 183 addresses, telephone numbers, dates of birth, and places of
 184 employment of the spouses and children of such persons; and the
 185 names and locations of schools and day care facilities attended
 186 by the children of such persons are exempt from s. 119.07(1) and
 187 s. 24(a), Art. I of the State Constitution, if the guardian ad
 188 litem provides a written statement that the guardian ad litem
 189 has made reasonable efforts to protect such information from
 190 being accessible through other means available to the public.
 191 This sub-subparagraph is subject to the Open Government Sunset
 192 Review Act in accordance with s. 119.15 and shall stand repealed
 193 on October 2, 2017 ~~2015~~, unless reviewed and saved from repeal
 194 through reenactment by the Legislature.

195 i. The home addresses, telephone numbers, dates of birth,
 196 and photographs of current or former juvenile probation

197 officers, juvenile probation supervisors, detention
 198 superintendents, assistant detention superintendents, juvenile
 199 justice detention officers I and II, juvenile justice detention
 200 officer supervisors, juvenile justice residential officers,
 201 juvenile justice residential officer supervisors I and II,
 202 juvenile justice counselors, juvenile justice counselor
 203 supervisors, human services counselor administrators, senior
 204 human services counselor administrators, rehabilitation
 205 therapists, and social services counselors of the Department of
 206 Juvenile Justice; the names, home addresses, telephone numbers,
 207 dates of birth, and places of employment of spouses and children
 208 of such personnel; and the names and locations of schools and
 209 day care facilities attended by the children of such personnel
 210 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 211 Constitution. This sub-subparagraph is subject to the Open
 212 Government Sunset Review Act in accordance with s. 119.15 and
 213 shall stand repealed on October 2, 2017, unless reviewed and
 214 saved from repeal through reenactment by the Legislature.

215 j. The home addresses, telephone numbers, dates of birth,
 216 and photographs of current or former public defenders, assistant
 217 public defenders, criminal conflict and civil regional counsel,
 218 and assistant criminal conflict and civil regional counsel; the
 219 home addresses, telephone numbers, dates of birth, and places of
 220 employment of the spouses and children of such defenders or
 221 counsel; and the names and locations of schools and day care
 222 facilities attended by the children of such defenders or counsel
 223 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 224 Constitution. This sub-subparagraph is subject to the Open

225 Government Sunset Review Act in accordance with s. 119.15 and
 226 shall stand repealed on October 2, ~~2015~~, unless reviewed
 227 and saved from repeal through reenactment by the Legislature.

228 2. An agency that is the custodian of the information
 229 specified in subparagraph 1. and that is not the employer of the
 230 officer, employee, justice, judge, or other person specified in
 231 subparagraph 1. shall maintain the exempt status of that
 232 information only if the officer, employee, justice, judge, other
 233 person, or employing agency of the designated employee submits a
 234 written request for maintenance of the exemption to the
 235 custodial agency.

236 Section 2. It is the finding of the Legislature that it is
 237 a public necessity that the dates of birth of agency personnel
 238 enumerated in s. 119.071(4)(e), Florida Statutes, and the
 239 spouses and children of such personnel be included within the
 240 types of personal identifying information for such agency
 241 personnel and the spouses and children thereof that are exempt
 242 from public records requirements under s. 119.071(4)(e), Florida
 243 Statutes. It is the finding of the Legislature that date of
 244 birth information can be used as a tool to perpetuate fraud
 245 against an individual and to acquire sensitive personal,
 246 financial, medical, and familial information, the release of
 247 which could cause great financial or personal harm to an
 248 individual. It is also the finding of the Legislature that, with
 249 respect to the existing exemptions from public records
 250 requirements for the telephone numbers of agency personnel
 251 enumerated in s. 119.071(4)(e), Florida Statutes, and the
 252 telephone numbers of the spouses and children of such personnel,

253 the term "telephone number" should be defined and clarified to
 254 include personal pager numbers. It is the finding of the
 255 Legislature that personal pager numbers, along with personal
 256 cellular telephone numbers, telephone numbers associated with
 257 personal communications devices, and telephone numbers
 258 associated with agency cellular telephones, pagers, or other
 259 personal communications devices issued or assigned to agency
 260 personnel in furtherance of their duties, constitute another
 261 means by which any of the agency personnel enumerated in s.
 262 119.071(4)(e), Florida Statutes, and the spouses and children of
 263 such personnel could potentially be identified, located, and
 264 subsequently put at risk.

265 Section 3. Section 409.2577, Florida Statutes, is amended
 266 to read:

267 409.2577 Parent locator service.—The department shall
 268 establish a parent locator service to assist in locating parents
 269 who have deserted their children and other persons liable for
 270 support of dependent children. The department shall use all
 271 sources of information available, including the Federal Parent
 272 Locator Service, and may request and shall receive information
 273 from the records of any person or the state or any of its
 274 political subdivisions or any officer thereof. Any agency as
 275 defined in s. 120.52, any political subdivision, and any other
 276 person shall, upon request, provide the department any
 277 information relating to location, salary, insurance, social
 278 security, income tax, and employment history necessary to locate
 279 parents who owe or potentially owe a duty of support pursuant to
 280 Title IV-D of the Social Security Act. This provision shall

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281 expressly take precedence over any other statutory nondisclosure
282 provision which limits the ability of an agency to disclose such
283 information, except that law enforcement information as provided
284 in s. 119.071(4)(e) ~~119.071(4)(d)~~ is not required to be
285 disclosed, and except that confidential taxpayer information
286 possessed by the Department of Revenue shall be disclosed only
287 to the extent authorized in s. 213.053(16). Nothing in this
288 section requires the disclosure of information if such
289 disclosure is prohibited by federal law. Information gathered or
290 used by the parent locator service is confidential and exempt
291 from the provisions of s. 119.07(1). Additionally, the
292 department is authorized to collect any additional information
293 directly bearing on the identity and whereabouts of a person
294 owing or asserted to be owing an obligation of support for a
295 dependent child. The department shall, upon request, make
296 information available only to public officials and agencies of
297 this state; political subdivisions of this state, including any
298 agency thereof providing child support enforcement services to
299 non-Title IV-D clients; the parent owed support, legal guardian,
300 attorney, or agent of the child; and other states seeking to
301 locate parents who have deserted their children and other
302 persons liable for support of dependents, for the sole purpose
303 of establishing, modifying, or enforcing their liability for
304 support, and shall make such information available to the
305 Department of Children and Family Services for the purpose of
306 diligent search activities pursuant to chapter 39. If the
307 department has reasonable evidence of domestic violence or child
308 abuse and the disclosure of information could be harmful to the

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309 | parent owed support or the child of such parent, the child
 310 | support program director or designee shall notify the Department
 311 | of Children and Family Services and the Secretary of the United
 312 | States Department of Health and Human Services of this evidence.
 313 | Such evidence is sufficient grounds for the department to
 314 | disapprove an application for location services.

315 | Section 4. This act shall take effect October 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 629 (2012)

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: Government Operations
2 Subcommittee

3 Representative Hooper offered the following:

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

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (d) of subsection (4) of section
8 119.071, Florida Statutes, is amended to read:

9 119.071 General exemptions from inspection or copying of
10 public records.-

11 (4) AGENCY PERSONNEL INFORMATION.-

12 (d)1. For purposes of this paragraph, the term "telephone
13 numbers" includes home telephone numbers, personal cellular
14 telephone numbers, personal pager telephone numbers, and
15 telephone numbers associated with personal communications
16 devices.

17 2.a. The home addresses, telephone numbers, social
18 security numbers, dates of birth, and photographs of active or
19 former sworn or civilian law enforcement personnel, including

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20 correctional and correctional probation officers, personnel of
21 the Department of Children and Family Services whose duties
22 include the investigation of abuse, neglect, exploitation,
23 fraud, theft, or other criminal activities, personnel of the
24 Department of Health whose duties are to support the
25 investigation of child abuse or neglect, and personnel of the
26 Department of Revenue or local governments whose
27 responsibilities include revenue collection and enforcement or
28 child support enforcement; the home addresses, telephone
29 numbers, social security numbers, dates of birth,
30 and places of employment of the spouses and children of such
31 personnel; and the names and locations of schools and day care
32 facilities attended by the children of such personnel are exempt
33 from s. 119.07(1).

34 b. The home addresses, telephone numbers, dates of birth,
35 and photographs of firefighters certified in compliance with s.
36 633.35; the home addresses, telephone numbers, photographs,
37 dates of birth, and places of employment of the spouses and
38 children of such firefighters; and the names and locations of
39 schools and day care facilities attended by the children of such
40 firefighters are exempt from s. 119.07(1).

41 c. The home addresses, dates of birth, and telephone
42 numbers of justices of the Supreme Court, district court of
43 appeal judges, circuit court judges, and county court judges;
44 the home addresses, telephone numbers, dates of birth, and
45 places of employment of the spouses and children of justices and
46 judges; and the names and locations of schools and day care

COMMITTEE/SUBCOMMITTEE AMENDMENT

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47 facilities attended by the children of justices and judges are
48 exempt from s. 119.07(1).

49 d. The home addresses, telephone numbers, social security
50 numbers, dates of birth, and photographs of current or former
51 state attorneys, assistant state attorneys, statewide
52 prosecutors, or assistant statewide prosecutors; the home
53 addresses, telephone numbers, social security numbers,
54 photographs, dates of birth, and places of employment of the
55 spouses and children of current or former state attorneys,
56 assistant state attorneys, statewide prosecutors, or assistant
57 statewide prosecutors; and the names and locations of schools
58 and day care facilities attended by the children of current or
59 former state attorneys, assistant state attorneys, statewide
60 prosecutors, or assistant statewide prosecutors are exempt from
61 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

62 e. The home addresses, dates of birth, and telephone
63 numbers of general magistrates, special magistrates, judges of
64 compensation claims, administrative law judges of the Division
65 of Administrative Hearings, and child support enforcement
66 hearing officers; the home addresses, telephone numbers, dates
67 of birth, and places of employment of the spouses and children
68 of general magistrates, special magistrates, judges of
69 compensation claims, administrative law judges of the Division
70 of Administrative Hearings, and child support enforcement
71 hearing officers; and the names and locations of schools and day
72 care facilities attended by the children of general magistrates,
73 special magistrates, judges of compensation claims,
74 administrative law judges of the Division of Administrative

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75 Hearings, and child support enforcement hearing officers are
76 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
77 Constitution if the general magistrate, special magistrate,
78 judge of compensation claims, administrative law judge of the
79 Division of Administrative Hearings, or child support hearing
80 officer provides a written statement that the general
81 magistrate, special magistrate, judge of compensation claims,
82 administrative law judge of the Division of Administrative
83 Hearings, or child support hearing officer has made reasonable
84 efforts to protect such information from being accessible
85 through other means available to the public. ~~This sub-~~
86 ~~subparagraph is subject to the Open Government Sunset Review Act~~
87 ~~in accordance with s. 119.15, and shall stand repealed on~~
88 ~~October 2, 2013, unless reviewed and saved from repeal through~~
89 ~~reenactment by the Legislature.~~

90 f. The home addresses, telephone numbers, dates of birth,
91 and photographs of current or former human resource, labor
92 relations, or employee relations directors, assistant directors,
93 managers, or assistant managers of any local government agency
94 or water management district whose duties include hiring and
95 firing employees, labor contract negotiation, administration, or
96 other personnel-related duties; the names, home addresses,
97 telephone numbers, dates of birth, and places of employment of
98 the spouses and children of such personnel; and the names and
99 locations of schools and day care facilities attended by the
100 children of such personnel are exempt from s. 119.07(1) and s.
101 24(a), Art. I of the State Constitution.

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102 g. The home addresses, telephone numbers, dates of birth,
103 and photographs of current or former code enforcement officers;
104 the names, home addresses, telephone numbers, dates of birth,
105 and places of employment of the spouses and children of such
106 personnel; and the names and locations of schools and day care
107 facilities attended by the children of such personnel are exempt
108 from s. 119.07(1) and s. 24(a), Art. I of the State
109 Constitution.

110 h. The home addresses, telephone numbers, places of
111 employment, dates of birth, and photographs of current or former
112 guardians ad litem, as defined in s. 39.820; the names, home
113 addresses, telephone numbers, dates of birth, and places of
114 employment of the spouses and children of such persons; and the
115 names and locations of schools and day care facilities attended
116 by the children of such persons are exempt from s. 119.07(1) and
117 s. 24(a), Art. I of the State Constitution, if the guardian ad
118 litem provides a written statement that the guardian ad litem
119 has made reasonable efforts to protect such information from
120 being accessible through other means available to the public.
121 ~~This sub-subparagraph is subject to the Open Government Sunset~~
122 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
123 ~~on October 2, 2015, unless reviewed and saved from repeal~~
124 ~~through reenactment by the Legislature.~~

125 i. The home addresses, telephone numbers, dates of birth,
126 and photographs of current or former juvenile probation
127 officers, juvenile probation supervisors, detention
128 superintendents, assistant detention superintendents, juvenile
129 justice detention officers I and II, juvenile justice detention

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130 officer supervisors, juvenile justice residential officers,
131 juvenile justice residential officer supervisors I and II,
132 juvenile justice counselors, juvenile justice counselor
133 supervisors, human services counselor administrators, senior
134 human services counselor administrators, rehabilitation
135 therapists, and social services counselors of the Department of
136 Juvenile Justice; the names, home addresses, telephone numbers,
137 dates of birth, and places of employment of spouses and children
138 of such personnel; and the names and locations of schools and
139 day care facilities attended by the children of such personnel
140 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
141 Constitution.

142 j. The home addresses, telephone numbers, dates of birth,
143 and photographs of current or former public defenders, assistant
144 public defenders, criminal conflict and civil regional counsel,
145 and assistant criminal conflict and civil regional counsel; the
146 home addresses, telephone numbers, dates of birth, and places of
147 employment of the spouses and children of such defenders or
148 counsel; and the names and locations of schools and day care
149 facilities attended by the children of such defenders or counsel
150 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
151 Constitution. ~~This sub-subparagraph is subject to the Open
152 Government Sunset Review Act in accordance with s. 119.15 and
153 shall stand repealed on October 2, 2015, unless reviewed and
154 saved from repeal through reenactment by the Legislature.~~

155 3.2. An agency that is the custodian of the information
156 specified in subparagraph 1. and that is not the employer of the
157 officer, employee, justice, judge, or other person specified in

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158 | subparagraph 1. shall maintain the exempt status of that
159 | information only if the officer, employee, justice, judge, other
160 | person, or employing agency of the designated employee submits a
161 | written request for maintenance of the exemption to the
162 | custodial agency.

163 | 4. The exemptions in this paragraph apply to information
164 | held by an agency before, on, or after the effective date of the
165 | exemption.

166 | 5. This paragraph is subject to the Open Government Sunset
167 | Review Act in accordance with s. 119.15, and shall stand
168 | repealed on October 2, 2017, unless reviewed and saved from
169 | repeal through reenactment by the Legislature.

170 | Section 2. It is the finding of the Legislature that the
171 | dates of birth of agency personnel enumerated in s.
172 | 119.071(4)(d), Florida Statutes, and of the spouses and children
173 | of such personnel be included within the types of identification
174 | and location information for such agency personnel and the
175 | spouses and children thereof that are exempt from public record
176 | requirements under s. 119.071(4)(d), Florida Statutes. It is the
177 | finding of the Legislature that date of birth information can be
178 | used as a tool to perpetuate fraud against an individual and to
179 | acquire sensitive personal, financial, medical, and familial
180 | information, the release of which could cause great financial
181 | harm to an individual. It is also the finding of the Legislature
182 | that, with respect to the existing exemptions from public record
183 | requirements for the telephone numbers of agency personnel
184 | enumerated in s. 119.071(4)(d), Florida Statutes, and the
185 | telephone numbers of the spouses and children of such personnel,

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186 the term "telephone number" should be defined and clarified to
187 include personal pager numbers. Personal pager numbers are
188 another means by which any of the agency personnel enumerated in
189 s. 119.071(4)(d), Florida Statutes, and the spouses and children
190 of such personnel, could potentially be identified, located, and
191 put at risk.

192 Section 3. This act shall take effect October 1, 2012.
193
194
195

196 -----
197 **T I T L E A M E N D M E N T**

198 Remove lines 7-14 and insert:

199 requirements under s. 119.071(4)(d), F.S.; clarifying an
200 exemption for personal identifying information of active or
201 former law enforcement personnel and the spouses and children
202 thereof; providing for retroactive application of the
203 exemptions; providing for future legislative review and repeal
204 of the exemptions; defining the term "telephone numbers";
205 providing a statement of public necessity; providing an
206

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 811 Pub. Rec./Dental Workforce Surveys

SPONSOR(S): Harrell

TIED BILLS: IDEN./SIM. BILLS: SB 584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Thompson	Williamson
2) Health & Human Services Quality Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill creates a public record exemption for all personal identifying information contained in records provided by dentists or dental hygienists in response to dental workforce surveys and held by the Department of Health. Such information must be disclosed:

- With the express written consent of the individual to whom the information pertains or to the individual's legally authorized representative.
- By court order upon a showing of good cause.
- To a research entity, provided certain requirements are met.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution, and provides an effective date of upon becoming a law.

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Workforce Surveys

Current law does not provide for a dental workforce survey as part of the licensure renewal process for dentists and dental hygienists. In 2009, however, the Department of Health (DOH) developed a workforce survey for dentists and dental hygienists to complete on a voluntary basis in conjunction with the biennial renewal of dental licenses.³

Responses to the survey are self-reported. The survey was designed to obtain information unavailable elsewhere on key workforce characteristics in order to better inform and shape public healthcare policy. Of the 11,272 dentists who renewed an active license by June 23, 2010, 89 percent responded to the voluntary survey.⁴

Effect of Bill

The bill provides that all personal identifying information contained in records provided by dentists or dental hygienists licensed under chapter 466, F.S., in response to dental workforce surveys and held by DOH is confidential and exempt⁵ from public records requirements. Such information must be disclosed:

¹ Section 24(c), Art. I of the State Constitution.

² Section 119.15, F.S.

³ Section 466.013(2), F.S., authorizes DOH to adopt rules for the biennial renewal of licenses.

⁴ Report on the 2009-2010 Workforce Survey of Dentists Florida Department of Health, March 2011, at 11, http://www.doh.state.fl.us/Family/dental/OralHealthcareWorkforce/2009_2010_Workforce_Survey_Dentists_Report.pdf (last visited December 22, 2011).

⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)).

- With the express written consent of the individual to whom the information pertains or to the individual's legally authorized representative.
- By court order upon a showing of good cause.

In addition, such information must be disclosed to a research entity, if the entity seeks the record or data pursuant to a research protocol approved by DOH. The research entity must maintain the records or data in accordance with the approved research protocol, and enter into a purchase and data-use agreement with DOH. The agreement must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data remain the property of DOH.

DOH is authorized to deny a research entity's request if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.⁶

B. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law that creates a public record exemption for personal identifying information of dentists or dental hygienists contained in a response to a dental workforce survey.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of upon becoming a law.

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.

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 the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).

⁶ Section 24(c), Art. I of the State Constitution.

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:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Voluntary Survey

The Department of Health developed a workforce survey for dentists and dental hygienists to complete on a voluntary basis in conjunction with the biennial renewal of dental licenses. However, there does not appear to be any statutory authority for the creation of such survey.

Other Comments: Retroactive Application

The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively.⁷ The bill does not contain a provision requiring retroactive application. As such, the public record exemption would only apply prospectively.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁷ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

1 A bill to be entitled
 2 An act relating to public records; providing an
 3 exemption from public records requirements for
 4 information contained in dental workforce surveys
 5 submitted by dentists or dental hygienists to the
 6 Department of Health; providing exceptions to the
 7 exemption; providing for future legislative review and
 8 repeal of the exemption under the Open Government
 9 Sunset Review Act; providing a statement of public
 10 necessity; providing an effective date.

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

13
 14 Section 1. Confidentiality of certain information
 15 contained in dental workforce surveys.-

16 (1) All personal identifying information that is contained
 17 in records provided by dentists or dental hygienists licensed
 18 under chapter 466, Florida Statutes, in response to dental
 19 workforce surveys and held by the Department of Health is
 20 confidential and exempt from s. 119.07(1), Florida Statutes, and
 21 s. 24(a), Article I of the State Constitution, except such
 22 information shall be disclosed:

23 (a) With the express written consent of the individual to
 24 whom the information pertains or the individual's legally
 25 authorized representative.

26 (b) By court order upon a showing of good cause.

27 (c) To a research entity, if the entity seeks the records
 28 or data pursuant to a research protocol approved by the

29 Department of Health, maintains the records or data in
 30 accordance with the approved protocol, and enters into a
 31 purchase and data-use agreement with the department, the fee
 32 provisions of which are consistent with s. 119.07(4), Florida
 33 Statutes. The department may deny a request for records or data
 34 if the protocol provides for intrusive follow-back contacts,
 35 does not plan for the destruction of confidential records after
 36 the research is concluded, is administratively burdensome, or
 37 does not have scientific merit. The agreement must restrict the
 38 release of information that would identify individuals, limit
 39 the use of records or data to the approved research protocol,
 40 and prohibit any other use of the records or data. Copies of
 41 records or data issued pursuant to this paragraph remain the
 42 property of the department.

43 (2) This section is subject to the Open Government Sunset
 44 Review Act in accordance with s. 119.15, Florida Statutes, and
 45 shall stand repealed on October 2, 2017, unless reviewed and
 46 saved from repeal through reenactment by the Legislature.

47 Section 2. The Legislature finds that it is a public
 48 necessity that personal identifying information concerning a
 49 dentist or dental hygienist licensed under chapter 466, Florida
 50 Statutes, who responds to a dental workforce survey be made
 51 confidential and exempt from disclosure. Candid and honest
 52 responses by licensed dentists or dental hygienists to the
 53 workforce survey will ensure that timely and accurate
 54 information is available to the Department of Health. The
 55 Legislature finds that the failure to maintain the
 56 confidentiality of such personal identifying information would

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57 prevent the resolution of important state interests to ensure
58 the availability of dentists or dental hygienists in this state.

59 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4151 Governmental Efficiency Hotline

SPONSOR(S): Rooney, Jr.

TIED BILLS: IDEN./SIM. BILLS: SB 1690

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Naf <i>an</i>	Williamson <i>raw</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires the Chief Financial Officer to operate a statewide toll-free telephone hotline to receive suggestions from Florida residents on how to improve governmental efficiency. This bill repeals the program.

The bill provides an effective date of July 1, 2012.

The bill may have a positive fiscal impact on state expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Current law requires the Chief Financial Officer (CFO) to operate a statewide toll-free telephone hotline (the Get Lean Florida program) to receive information or suggestions from Florida residents on how to improve government operations, increase government efficiency, and eliminate government waste.¹ The Division of Consumer Services of the Department of Financial Services manages both a hotline and a website.²

The CFO must maintain a log of all received suggestions and information. An agency affected by a suggestion or item of information must conduct a preliminary evaluation of its efficacy and must provide the CFO with a preliminary determination of potential revenue savings.³ The CFO does not have enforcement authority to compel the affected agencies to respond.⁴

In 2011, approximately 63 percent of submissions were closed as invalid.⁵ As of December 2011, 48 percent of valid submissions remained open, awaiting a response from the affected agency.⁶

The Department of Financial Services recommends that the Legislature consider repealing the Get Lean Florida program because:

- The CFO does not have the statutory authority to compel affected agencies to respond;
- Many submissions are also submitted to state legislators or to jurisdictional agencies; and
- The resources used to maintain the program may be better used in other capacities.⁷

Effect of Proposed Changes

The bill repeals the Get Lean Florida program.

B. SECTION DIRECTORY:

Section 1 repeals s. 17.325, F.S., relating to a governmental efficiency hotline.

Section 2 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive fiscal impact due to the elimination of the program.

¹ See s. 17.325, F.S.

² Department of Financial Services memorandum (on file with the Government Operations Subcommittee). See also "Get Lean Florida," <http://www.getleanflorida.com/> (last viewed January 9, 2012).

³ Section 17.325(3), F.S.

⁴ Department of Financial Services memorandum (on file with the Government Operations Subcommittee).

⁵ *Id.* In order to be valid, the submission must be related to improving the efficiency and cost-effectiveness of state government (*id.*).

⁶ *Id.*

⁷ *Id.*

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:

Because this bill repeals the Get Lean Florida program, it appears that rule 69J-10.001, F.A.C., will no longer be necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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1 A bill to be entitled
2 An act relating to a governmental efficiency hotline;
3 repealing s. 17.325, F.S., relating to a statewide
4 toll-free telephone hotline to receive information or
5 suggestions from residents on how to improve the
6 operation of government, increase governmental
7 efficiency, and eliminate waste in government;
8 providing an effective date.

9

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

11

12 Section 1. Section 17.325, Florida Statutes, is repealed.

13 Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 12-06 OGSR Personal Injury Protection and Property Damage Liability Insurance Policies
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** SB 1232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Thompson <i>JA</i>	Williamson <i>Waw</i>

SUMMARY ANALYSIS

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

Current law provides that personal identifying information of an insured or former insured and an insurance policy number, regarding personal injury protection and property damage liability insurance policies, held by the Department of Highway Safety and Motor Vehicles (DHSMV) is confidential and exempt from public records requirements. Upon receipt of a written request and a copy of a crash report, DHSMV must release the policy number for a policy covering a vehicle involved in a motor vehicle accident to any person involved in the accident, the attorney of any person involved in the accident, or a representative of the insurer of any person involved in the accident. The law provides for retroactive application of the public record exemption.

The bill reenacts the public record exemption, which will repeal on October 2, 2012, if this bill does not become law.

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 Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.² 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 created³ then a public necessity statement and a two-thirds vote for passage are not required.

No-Fault Motor Vehicle Insurance

Under a no-fault insurance system, medical and other benefits are provided without regard to fault in return for limitations on lawsuits for non-economic damages.

In Special Session C of 2007, the Legislature passed CS/HB 13C, which revived and reenacted the Florida Motor Vehicle No-Fault Law (No-Fault Law), effective January 1, 2008.⁴ The No-Fault Law requires every owner and registrant of a motor vehicle that is required to be licensed and registered in this state to maintain \$10,000 worth of first-party insurance known as personal injury protection,⁵ and \$10,000 worth of property damage liability coverage.⁶

Insurers must notify the named insured, in writing, that a cancellation or nonrenewal of the required policies will be reported to the Department of Highway Safety and Motor Vehicles (DHSMV), and that failure to maintain such coverage will result in the loss of registration and driving privileges in this state. Also, the notification must include the amount of the reinstatement fees. The insurer, however, is not civilly liable for failing to provide notice.⁷

To ensure compliance with the No-Fault Law, every insurer issuing either of the required policies must report information regarding renewal, cancellation, or nonrenewal to DHSMV within 45 days of the

¹ Section 119.15, F.S.

² Section 24(c), Art. I of the State Constitution.

³ An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

⁴ Chapter 2007-324, L.O.F.; codified as ss. 627.730 - 627.7405, F.S.

⁵ See ss. 627.733 and 627.736, F.S.

⁶ Section 324.022, F.S.

⁷ See s. 324.0221(1)(b), F.S.

effective date or within 30 days of the issuance of a new policy. The failure of an insurer to file the proper reports to DHSMV constitutes a violation of the Florida Insurance Code.⁸ DHSMV only uses the information for enforcement and regulatory purposes.

Public Record Exemption under Review

Current law provides that personal identifying information of an insured or former insured and an insurance policy number, regarding personal injury protection and property damage liability insurance policies, held by DHSMV is confidential and exempt⁹ from public records requirements. Upon receipt of a written request and a copy of a crash report,¹⁰ DHSMV must release the policy number for a policy covering a vehicle involved in a motor vehicle accident to:

- Any person involved in the accident;
- The attorney of any person involved in the accident; or
- A representative of the insurer of any person involved in the accident.¹¹

The law provides for retroactive application of the public record exemption.¹²

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2012, unless reenacted by the Legislature.¹³

Effect of Bill

The bill removes the repeal date, thereby reenacting the public record exemption for personal identifying information of an insured or former insured and an insurance policy number held by DHSMV. It also codifies in law the original effective date of the exemption for purposes of determining when retroactive application took effect.

B. SECTION DIRECTORY:

Section 1 amends s. 324.242, F.S., to reenact the public record exemption for the Florida Motor Vehicle No-Fault Law.

Section 2 provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁸ See s. 324.0221(1)(a), F.S.

⁹ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 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 the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

¹⁰ Sections 316.065, 316.066, and 316.068, F.S., provide crash report requirements.

¹¹ Section 324.242(2), F.S.

¹² Section 324.242(3), F.S.

¹³ Section 324.242(4), F.S.

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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 324.242, F.S., relating
 4 to an exemption from public records requirements for
 5 personal identifying information and policy numbers
 6 regarding personal injury protection and property
 7 damage liability insurance policies; making a
 8 conforming change; removing the scheduled repeal of
 9 the exemption; providing an effective date.

10

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

12

13 Section 1. Section 324.242, Florida Statutes, is amended
 14 to read:

15 324.242 Personal injury protection and property damage
 16 liability insurance policies; public records exemption.-

17 (1) The following information regarding personal injury
 18 protection and property damage liability insurance policies held
 19 by the department is confidential and exempt from s. 119.07(1)
 20 and s. 24(a), Art. I of the State Constitution:

21 (a) Personal identifying information of an insured or
 22 former insured; and

23 (b) An insurance policy number.

24 (2) Upon receipt of a written request and a copy of a
 25 crash report as required under s. 316.065, s. 316.066, or s.
 26 316.068, the department shall release the policy number for a
 27 policy covering a vehicle involved in a motor vehicle accident
 28 to:

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- 29 (a) Any person involved in such accident;
30 (b) The attorney of any person involved in such accident;

31 or

32 (c) A representative of the insurer of any person involved
33 in such accident.



34 (3) This exemption applies to personal identifying
35 information of an insured or former insured and insurance policy
36 numbers held by the department before, on, or after October 11,
37 2007 ~~the effective date of this section.~~

38 ~~(4) This section is subject to the Open Government Sunset~~
39 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
40 ~~on October 2, 2012, unless reviewed and saved from repeal~~
41 ~~through reenactment by the Legislature.~~

42 Section 2. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 12-07 OGSR Physician Workforce Surveys
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Thompson 	Williamson 

SUMMARY ANALYSIS

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

Currently, personal identifying information contained in records provided by Florida-licensed medical physicians and osteopathic physicians in response to the Department of Health's (DOH) physician workforce survey is confidential and exempt from public records requirements. DOH must disclose the confidential and exempt information under specific circumstances.

The bill reenacts the public record exemptions, which will repeal on October 2, 2012, if this bill does not become law.

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 Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.² 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 created³ then a public necessity statement and a two-thirds vote for passage are not required.

Physician Workforce Surveys

Current law requires the Department of Health (DOH) to serve as the coordinating and strategic planning body to actively assess Florida's current and future physician workforce needs. DOH is directed to maximize the use of its existing programs and coordinate with other governmental and nongovernment stakeholders to develop a state physician workforce strategic plan.⁴ In support of this plan, DOH collects pertinent information by means of a physician workforce survey.

All Florida-licensed medical and osteopathic physicians are required to complete a physician workforce survey⁵ in conjunction with their biennial licensure renewal.⁶ The survey information must include, but is not limited to frequency and geographic location of practice within Florida, practice setting, percentage of time spent in direct patient care, anticipated change of license or practice status, areas of specialty or certification, and the availability and trends related to critically needed services, as specified in law and determined by the DOH.

The law provides DOH with rulemaking authority to implement the physician workforce survey.⁷ The survey must be completed on-line if the renewal is conducted on-line; otherwise, a paper copy of the survey must be completed and submitted with the renewal application.⁸

¹ Section 119.15, F.S.

² Section 24(c), Art. I of the State Constitution

³ An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

⁴ Chapter 2007-172, L.O.F.; codified in s. 381.4018, F.S.

⁵ Chapter 2007-172, L.O.F.; codified in s. 458.3191, F.S., for medical physicians, and s. 459.0081, F.S., for osteopathic physicians.

⁶ See s. 458.319, F.S., for medical physicians, and s. 459.008, F.S., for osteopathic physicians.

⁷ See s. 458.3191(4), F.S., for medical physicians, and 459.0081(4), F.S., for osteopathic physicians, which authorizes the promulgation of Rule 64B-9.002, F.A.C.

DOH is required to issue a non-disciplinary citation to any licensed medical or osteopathic physician if the physician fails to complete the survey within 90 days of licensure renewal.⁹ The citation notifies a physician who fails to complete the survey that he or she cannot renew his or her license, until the physician completes the survey.¹⁰

DOH must report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1 each year.¹¹ This report is known as the Physician Workforce Annual Report.

Public Record Exemptions under Review

Current law provides that personal identifying information contained in records provided by Florida-licensed medical and osteopathic physicians in response to physician workforce surveys and held by DOH is confidential and exempt¹² from public records requirements.¹³ Such information may be disclosed:

- With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative;
- By court order upon a showing of good cause;
- To a research entity, if the entity seeks the records or data pursuant to a research protocol approved by DOH, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with DOH, the fee provisions of which are consistent with s. 119.07(4), F.S.¹⁴

DOH is authorized to deny a request for records or data if the protocol:

- Provides for intrusive follow-back contacts;
- Does not plan for the destruction of confidential records after the research is concluded;
- Is administratively burdensome; or
- Does not have scientific merit.¹⁵

Such an agreement between DOH and a research entity must restrict the release of any information that would permit the identification of persons, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data.¹⁶ Copies of records or data issued pursuant to such an agreement remain the property of DOH.¹⁷

Pursuant to the Open Government Sunset Review Act, the exemptions will repeal on October 2, 2012, unless reenacted by the Legislature.

⁸ See Rule 64B-9.002(1), F.A.C.

⁹ See Rule 64B-9.002(2), F.A.C., s. 458.3191(3)(a), F.S., for medical physicians, and s. 459.0081(3)(a), F.S., for osteopathic physicians.

¹⁰ See Rule 64B-9.002(2), F.A.C., s. 458.3191(3)(b), F.S., for medical physicians, and s. 459.0082, F.S., for osteopathic physicians.

¹¹ See s. 458.3192, F.S. for medical physicians, and 459.0082, F.S., for osteopathic physicians.

¹² There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 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 the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

¹³ See s. 458.3193, F.S., for medical physicians, and s. 459.0083, F.S., for osteopathic physicians.

¹⁴ See s. 458.3193(1), F.S., for medical physicians, and s. 459.0083(1), F.S., for osteopathic physicians.

¹⁵ See s. 458.3193(1)(c), F.S., for medical physicians, and s. 459.0083(1)(c), F.S., for osteopathic physicians.

¹⁶ *Id.*

¹⁷ *Id.*

Effect of Bill

The bill removes the repeal date, thereby reenacting the public record exemptions for personal identifying information contained in records provided by Florida-licensed medical and osteopathic physicians in response to the physician workforce survey. It also removes superfluous language.

B. SECTION DIRECTORY:

Section 1 amends s. 458.3193, F.S., to reenact the public record exemption for personal identifying information contained in physician workforce surveys.

Section 2 amends s. 459.0083, F.S., to reenact the public record exemption for personal identifying information contained in physician workforce surveys.

Section 3 provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In 2009 and 2010, 57,750 physicians were eligible for licensure renewal, and 99 percent of all the physicians renewing responded to the physician workforce survey.¹⁸

According to DOH and the medical community, the information contained in the survey is tied to the physician's license number and identifying information and, thus, confidential and sensitive in nature. The protection of this information from public disclosure likely promotes open and honest participation from responding physicians, thereby, ensuring the integrity of physician workforce data that is collected and analyzed in support of the State's physician workforce strategic plan.¹⁹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

¹⁸ Florida Department of Health Physician Workforce Annual Report 2010, published November 1, 2010, at 9 and 10, available at: http://www.doh.state.fl.us/Workforce/Workforce/Annual_Reports/PhysicianWorkforce_Nov2010.pdf (last visited on December 14, 2011).

¹⁹ Open Government Sunset Review of ss. 458.3193, and 459.0083, F.S., relating to the public record exemption for physician surveys, joint questionnaires sent to DOH, the Florida Osteopathic Medical Association, the Florida Medical Association, the Board of Medicine, and the Board of Osteopathic Medicine, by Senate and House staff, July and August 2011. (On file with the Government Operations Subcommittee).

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending ss. 458.3193 and 459.0083,
 4 F.S., relating to exemptions from public records
 5 requirements for personal identifying information
 6 contained in physician workforce surveys submitted to
 7 the Department of Health by physicians and osteopathic
 8 physicians; removing superfluous language; removing
 9 the scheduled repeal of each exemption; providing an
 10 effective date.

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

13
 14 Section 1. Section 458.3193, Florida Statutes, is amended
 15 to read:

16 458.3193 Confidentiality of certain information contained
 17 in physician workforce surveys.—

18 ~~(1)~~ All personal identifying information contained in
 19 records provided by physicians licensed under this chapter or
 20 chapter 459 in response to physician workforce surveys required
 21 as a condition of license renewal and held by the Department of
 22 Health is confidential and exempt from s. 119.07(1) and s.
 23 24(a), Art. I of the State Constitution, ~~except as otherwise~~
 24 ~~provided in this subsection.~~ Information made confidential and
 25 exempt by this section ~~subsection~~ shall be disclosed:

26 (1)~~(a)~~ With the express written consent of the individual
 27 to whom the information pertains or the individual's legally
 28 authorized representative.

29 (2)~~(b)~~ By court order upon a showing of good cause.
 30 (3)~~(e)~~ To a research entity, if the entity seeks the
 31 records or data pursuant to a research protocol approved by the
 32 Department of Health, maintains the records or data in
 33 accordance with the approved protocol, and enters into a
 34 purchase and data-use agreement with the department, the fee
 35 provisions of which are consistent with s. 119.07(4). The
 36 department may deny a request for records or data if the
 37 protocol provides for intrusive follow-back contacts, does not
 38 plan for the destruction of confidential records after the
 39 research is concluded, is administratively burdensome, or does
 40 not have scientific merit. The agreement must restrict the
 41 release of information that would identify individuals, must
 42 limit the use of records or data to the approved research
 43 protocol, and must prohibit any other use of the records or
 44 data. Copies of records or data issued pursuant to this
 45 subsection ~~paragraph~~ remain the property of the department.

46 ~~(2) This section is subject to the Open Government Sunset~~
 47 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 48 ~~on October 2, 2012, unless reviewed and saved from repeal~~
 49 ~~through reenactment by the Legislature.~~

50 Section 2. Section 459.0083, Florida Statutes, is amended
 51 to read:

52 459.0083 Confidentiality of certain information contained
 53 in physician workforce surveys.—

54 ~~(1)~~ All personal identifying information contained in
 55 records provided by physicians licensed under chapter 458 or
 56 this chapter in response to physician workforce surveys required

57 as a condition of license renewal and held by the Department of
58 Health is confidential and exempt from s. 119.07(1) and s.
59 24(a), Art. I of the State Constitution, ~~except as otherwise~~
60 ~~provided in this subsection~~. Information made confidential and
61 exempt by this section ~~subsection~~ shall be disclosed:

62 (1)(a) With the express written consent of the individual
63 to whom the information pertains or the individual's legally
64 authorized representative.

65 (2)(b) By court order upon a showing of good cause.

66 (3)(c) To a research entity, if the entity seeks the
67 records or data pursuant to a research protocol approved by the
68 Department of Health, maintains the records or data in
69 accordance with the approved protocol, and enters into a
70 purchase and data-use agreement with the department, the fee
71 provisions of which are consistent with s. 119.07(4). The
72 department may deny a request for records or data if the
73 protocol provides for intrusive follow-back contacts, does not
74 plan for the destruction of confidential records after the
75 research is concluded, is administratively burdensome, or does
76 not have scientific merit. The agreement must restrict the
77 release of information that would identify individuals, must
78 limit the use of records or data to the approved research
79 protocol, and must prohibit any other use of the records or
80 data. Copies of records or data issued pursuant to this
81 subsection ~~paragraph~~ remain the property of the department.

82 ~~(2) This section is subject to the Open Government Sunset~~
83 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
84 ~~on October 2, 2012, unless reviewed and saved from repeal~~

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85 | ~~through reenactment by the Legislature.~~

86 | Section 3. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 12-08 OGSR Sunshine State One-Call of Florida, Inc.
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** SB 844

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Thompson <i>JAT</i>	Williamson <i>naw</i>

SUMMARY ANALYSIS

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

Current law provides for the Underground Facility Damage Prevention and Safety Act (Act). The intent of the Act is to provide access for excavating contractors and the public to provide notification to the system of their intent to engage in excavation or demolition.

Sunshine State One-Call Of Florida, Inc., (One-Call) is a non-profit corporation created to administer the notification system. Each operator of an underground facility is a member. The membership elects a board of directors to administer the system, which is a free-access notification system established by One-Call. The board is subject to the public records and public meetings laws.

Current law provides for a public record exemption for proprietary confidential business information held by One-Call for the purpose of describing the extent and root cause of damage to an underground facility or using the member ticket management software system.

The bill reenacts this public record exemption, which will repeal on October 2, 2012, if this bill does not become law.

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 Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.² 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 created³ then a public necessity statement and a two-thirds vote for passage are not required.

Sunshine State One-Call, Inc.

Chapter 556, F.S., is the Underground Facility Damage Prevention and Safety Act (Act).⁴ The intent of the Act is to provide access for excavating contractors and the public to provide notification to the system of their intent to engage in excavation or demolition.⁵

The Act provides for creation of the Sunshine State One-Call Of Florida, Inc. (One-Call), as a not-for-profit corporation.⁶ Each operator of an underground facility⁷ is a member.⁸ The membership elects a board of directors to administer the system,⁹ which is a free-access notification system established by One-Call. The board of directors is subject to public records and public meetings laws.¹⁰

¹ Section 119.15, F.S.

² Section 24(c), Art. I of the State Constitution

³ An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

⁴ Section 556.101(1), F.S.

⁵ Section 556.101(2), F.S.

⁶ Section 556.103(1), F.S.

⁷ Section 556.102(13), F.S., defines "underground facility" as any public or private personal property which is buried, placed below ground, or submerged on any member operators right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage, electronic, telephonic, or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to pipelines, pipes, sewers, conduits, cables, valves, and lines.

⁸ Section 556.103(1), F.S.

⁹ Section 556.103(2), F.S.

¹⁰ Attorney General Opinion 94-35 provides in sum, "[m]eetings of the Board of Directors of Sunshine State One-Call of Florida, Inc., are subject to the requirements of the Government in the Sunshine Law and records of the corporation and its board of directors come within the scope of the Public Records Law." (April 21, 1994)

The notification system must provide a single toll-free telephone number within Florida that excavators can use to notify member operators of planned excavation or demolition activities.¹¹ When notice of intent to engage in excavation or demolition is filed, the systems managed by One-Call provide notice to the member operators of proposed excavation and give the opportunity for member operators to locate and identify their underground facilities.¹²

One-Call is not required or permitted to locate or mark underground facilities.¹³ However, those member operators who are provided notice of an excavation must locate and mark underground facilities not less than two business days after notification,¹⁴ or not less than 10 business days after notification for facilities located beneath the waters of the state.¹⁵

To initiate an excavation or demolition, an excavator must contact One-Call by phone or electronically to file a "ticket" that provides specific information about the proposed excavation, such as the name of the company or person, intended depth of the excavation, and the location of the intended excavation.¹⁶

In 2002, One-Call invested in a member ticket management software system that allows all excavators the opportunity to file tickets electronically and eliminates the cost of purchasing these systems for individual companies. Prior to this investment, electronic ticket filing was accessible only to member operators who bought ticket management systems.¹⁷

Public Record Exemption under Review

Current law provides a public record exemption for Sunshine State One-Call of Florida, Inc., (One-Call). Proprietary confidential business information held by One-Call, for the purpose of describing the extent and root cause of damage to an underground facility or using the member ticket management software system, is exempt¹⁸ from public records requirements.¹⁹

"Proprietary confidential business information" is defined as information provided by:

- A member operator that is a map, plan, facility location diagram, internal damage investigation report or analysis, dispatch methodology, trade secret, or that describes the exact location of a utility underground facility or the protection, repair, or restoration thereof.²⁰
- An excavator that is an internal damage investigation report or analysis relating to underground utility facilities damages.²¹

¹¹ Section 556.104, F.S.

¹² See s. 556.105, F.S.

¹³ Section 556.101(2), F.S.

¹⁴ Section 556.105(5)(a), F.S.

¹⁵ Section 556.105(5)(b), F.S.

¹⁶ See s. 556.105(1)(a), F.S.

¹⁷ Professional Staff Analysis and Economic Impact Statement for SB 1510, Senate Communications and Public Utilities Committee, March 19, 2007, at 2.

¹⁸ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 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 the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

¹⁹ Section 556.113(2), F.S.

²⁰ The definition further provides that the information is intended to be and is treated by the member operator as confidential; the disclosure would be reasonably likely to be used by a competitor to harm the business interests of the member operator or could be used for the purpose of inflicting damage on underground facilities; and is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to One-Call. (Section 556.113(1)(a), F.S.)

²¹ The definition further provides that the information is intended to be and is treated by the excavator as confidential; the disclosure of which would be reasonably likely to be used by a competitor to harm the business interests of the excavator or could be used for the purpose of inflicting damage on underground facilities; and is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to One-Call. (Section 556.113(1)(b), F.S.)

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2012, unless reenacted by the Legislature.²²

Effect of Bill

The bill removes the repeal date, thereby reenacting the public record exemption for proprietary confidential business information held by One-Call for the purpose of describing the extent and root cause of damage to an underground facility or using the member ticket management software system.

B. SECTION DIRECTORY:

Section 1 amends s. 556.113, F.S., to reenact the public record exemption for Sunshine State One-Call of Florida, Inc.

Section 2 provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

²² See s. 556.113(3), F.S.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

One-Call has requested that the exemption be reenacted. According to One-Call, its members are not required to report damage information, this is a voluntary function. Also, One-Call uses the extent and root cause data to detect damage patterns, which are used to focus One-Call resources where needed. Such information could be used to disclose the exact location of underground facilities, thereby, compromising competitive trade secrets and public safety.²³

Also according to One-Call, the ticket management software system contains internal business information that if disclosed could compromise trade secrets, thereby, giving an unfair market advantage to its member's competitors. Very few users of the ticket management system existed until the creation of the public records exemption. Currently, there are approximately 127 users of the system. Also, many One-Call members are small utilities that can provide safer, better, and more reasonably priced services using the One-Call ticket management system.²⁴

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

²³ Open Government Sunset Review of s. 556.113, F.S., relating to the public record exemption for Sunshine State One-Call, background information from One-Call, July, 2011, at page 2. (On file with the Government Operations Subcommittee).

²⁴ *Id.* at 2.

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 556.113, F.S., relating
 4 to an exemption from public records requirements for
 5 proprietary confidential business information held by
 6 Sunshine State One-Call of Florida, Inc.; removing the
 7 scheduled repeal of the exemption; providing an
 8 effective date.

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

11
 12 Section 1. Section 556.113, Florida Statutes, is amended
 13 to read:

14 556.113 Sunshine State One-Call of Florida, Inc.; public
 15 records exemption.—

16 (1) As used in this section, the term "proprietary
 17 confidential business information" means information provided
 18 by:

19 (a) A member operator which is a map, plan, facility
 20 location diagram, internal damage investigation report or
 21 analysis, dispatch methodology, or trade secret as defined in s.
 22 688.002, or which describes the exact location of a utility
 23 underground facility or the protection, repair, or restoration
 24 thereof, and:

25 1. Is intended to be and is treated by the member operator
 26 as confidential;

27 2. The disclosure of which would likely be used by a
 28 competitor to harm the business interests of the member operator

29 or could be used for the purpose of inflicting damage on
 30 underground facilities; and

31 3. Is not otherwise readily ascertainable or publicly
 32 available by proper means by other persons from another source
 33 in the same configuration as provided to Sunshine State One-Call
 34 of Florida, Inc.

35 (b) An excavator in an internal damage investigation
 36 report or analysis relating to damage to underground utility
 37 facilities, and:

38 1. Is intended to be and is treated by the excavator as
 39 confidential;

40 2. The disclosure of which would be reasonably likely to
 41 be used by a competitor to harm the business interests of the
 42 excavator or could be used for the purpose of inflicting damage
 43 on underground facilities; and

44 3. Is not otherwise readily ascertainable or publicly
 45 available by proper means by other persons from another source
 46 in the same configuration as provided to Sunshine State One-Call
 47 of Florida, Inc.

48 (2) Proprietary confidential business information held by
 49 Sunshine State One-Call of Florida, Inc., for the purpose of
 50 describing the extent and root cause of damage to an underground
 51 facility or using the member ticket management software system
 52 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 53 Constitution.

54 ~~(3) This section is subject to the Open Government Sunset~~
 55 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 56 ~~on October 2, 2012, unless reviewed and saved from repeal~~

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57 | ~~through reenactment by the Legislature.~~

58 | Section 2. This act shall take effect October 1, 2012.

