



Government Operations Subcommittee

**Tuesday, February 11, 2014
9:00 A.M.
Webster Hall (212 Knott)**

**Will Weatherford
Speaker**

**Frank Artiles
Chair**

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Tuesday, February 11, 2014 09:00 am
End Date and Time: Tuesday, February 11, 2014 11:00 am
Location: Webster Hall (212 Knott)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 7007 Pub. Rec./Payment of Tolls and Associated Charges by Transportation & Highway Safety Subcommittee, Artiles

Consideration of the following proposed committee bill(s):

PCB GVOPS 14-01 -- OGSR Florida Insurance Guaranty Association
PCB GVOPS 14-02 -- OGSR Scripps Florida Funding Corporation
PCB GVOPS 14-03 -- OGSR Dependent Children Insured by an Agency Group Insurance Plan


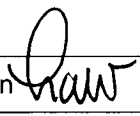
NOTICE FINALIZED on 02/04/2014 16:07 by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7007 PCB THSS 14-02 PCB THSS 14-02 Pub. Rec./Payment of Tolls and Associated Charges

SPONSOR(S): Transportation & Highway Safety Subcommittee, Artes

TIED BILLS: **IDEN./SIM. BILLS:** SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	13 Y, 0 N	Thompson	Miller
1) Government Operations Subcommittee		Stramski	Williamson 
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Current law provides a public record exemption for personal identifying information provided to, acquired by, or in the possession of the Department of Transportation (DOT), a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities. This prepayment system is the electronic transponder method of toll payment otherwise known as "SunPass."

The bill expands the current public record exemption to include personal identifying information held by DOT, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges. This change to the exemption adds personal identifying information of customers who use the post-payment method of toll payment otherwise known as "Toll-By-Plate." It also adds municipalities to the current list of toll records custodians to whom the exemption applies.

The bill provides for repeal of the exemption on October 2, 2019, 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 or expanded public record or public meeting exemption. The bill expands a current 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

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 the 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.

Electronic Toll Payment

Subject to limited exemptions, current law prohibits persons from using any toll facility without payment.³ The Department of Transportation (DOT) is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including, but not limited to, rules for the implementation of video or other image billing and variable pricing.⁴ DOT has implemented two electronic toll collection programs, SunPass and Toll-By-Plate.

SunPass⁵ is a prepaid system of electronic toll collection that is accepted on all Florida toll roads and nearly all toll bridges. SunPass utilizes a prepaid account system and electronic devices called transponders that attach to the inside of a car's windshield. When a car equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's prepaid account. SunPass account information includes the license plate number, address, and credit card information.⁶

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

² See s. 119.15, F.S.

³ See s. 338.155(1), F.S. The exemptions generally include toll employees on official state business, state military personnel on official military business, persons authorizing resolution for bonds to finance the facility, persons using the toll facility as a required detour route, law enforcement officers or persons operating a fire or rescue vehicle when on official business, funeral processions of law enforcement officers killed in the line of duty, and handicapped persons.

⁴ Section 338.155(1), F.S.

⁵ Rule 14-15.0081, F.A.C.

⁶ Information on SunPass is available at: <http://www.floridasturnpike.com/all-electronictolling/SunPass.cfm> (last visited Dec. 9, 2013).

The Toll-By-Plate⁷ program, established by DOT in 2010, is an image-based system of toll collection available on the southern 47 miles of Florida's Turnpike in Miami-Dade. The Miami-Dade Expressway Authority and the Tampa-Hillsborough Expressway Authority have their own toll-by-plate programs. Toll-By-Plate takes a photo of a license plate as a vehicle travels through a Turnpike tolling location and mails a monthly bill for the tolls, including an administrative charge, to the registered owner of the vehicle. Accounts can be set up as pre-paid or post-paid.⁸ Accounts may require name, address, email, driver's license number, day time phone number, and credit and debit card numbers.⁹

Public Record Exemption: Electronic Payment of Tolls

Section 338.155(6), F.S., provides that personal identifying information provided to, acquired by, or in the possession of DOT, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges is exempt¹⁰ from public record requirements. This provision was first adopted in 1996.¹¹

Recently, DOT has expanded its use of electronic toll collection with the Toll-By-Plate video billing system. The current SunPass public record exemption does not protect the personal identifying information of Toll-By-Plate customers. Also, municipalities are not included in the current list of public records custodians to whom the exemption applies.

Proposed Changes

The bill amends s. 338.155(6), F.S., to expand the current public record exemption to include personal identifying information held by DOT, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities. This change to the exemption adds personal identifying information of Toll-By-Plate customers. The bill also adds municipalities to the current list of public records custodians to whom the exemption applies.

The bill provides for repeal of the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

- Section 1. Amends s. 338.155, F.S., to provide an exemption from public record requirements for personal identifying information, and to provide for future legislative review and repeal of the exemption.
- Section 2. Provides a finding of public necessity.
- Section 3. Provides that the bill is effective upon becoming a law.

⁷ Rule 14-100.005, F.A.C.

⁸ Information on toll-by-plate is available at: <http://www.floridasturnpike.com/all-electronictolling/TOLL-BY-PLATE.cfm> (Last visited Dec. 9, 2013).

⁹ Information on toll-by-plate accounts can be found at:

<https://www.tollbyplate.com/displaySelectCustomerTypeRegisterAccountNewAccount> (last visited Dec. 10, 2013).

¹⁰ 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 683 (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).

¹¹ Chapter 96-178, L.O.F.; codified as s. 338.155(6), F.S.

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 state and local agencies with staff responsible for complying with public records requests as staff could require training related to the expansion of the public record exemption. In addition, an agency could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, 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 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.

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 or expanded public record or public meeting exemption. The bill expands a 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 expands a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands the public record exemption to include personal identifying information held by DOT, a county, a municipality, or an expressway authority for the purpose of paying tolls by any means of payment. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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.¹² The bill does not contain a provision requiring retroactive application. As such, the public record exemption would apply prospectively; however, the Toll-By-Plate program began operating as early as 2010.¹³

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Thursday, January 9, 2014, the Transportation & Highway Safety Subcommittee adopted two amendments to PCB THSS 14-02. Amendment one revises the public necessity statement to describe the protections the bill provides for information regarding the location, travel patterns, and travel activity of toll customers and the related benefits such protections would provide to public health and safety. Amendment two includes municipalities in the current list of toll records custodians to whom the exemption applies.

¹² *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

¹³ Information received from the Florida Department of Transportation, March 13, 2013 (email on file with the Transportation and Highway Safety Subcommittee).

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 338.155, F.S., relating to the payment of tolls and
 4 associated charges; providing an exemption from public
 5 records requirements for personal identifying
 6 information; providing for future legislative review
 7 and repeal of the exemption; providing a statement of
 8 public necessity; providing an effective date.

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

11
 12 Section 1. Subsection (6) of section 338.155, Florida
 13 Statutes, is amended to read:

14 338.155 Payment of toll on toll facilities required;
 15 exemptions.—

16 (6) (a) Personal identifying information held by ~~provided~~
 17 ~~to, acquired by, or in the possession of~~ the Department of
 18 Transportation, a county, a municipality, or an expressway
 19 authority for the purpose of paying, prepaying, or collecting
 20 tolls and associated administrative charges due for the use of
 21 ~~using a credit card, charge card, or check for the prepayment of~~
 22 ~~electronic toll facilities charges to the department, a county,~~
 23 ~~or an expressway authority~~ is exempt from s. 119.07(1) and s.
 24 24(a), Art. I of the State Constitution.

25 (b) This subsection is subject to the Open Government
 26 Sunset Review Act in accordance with s. 119.15 and shall stand

27 | repealed on October 2, 2019, unless reviewed and saved from
 28 | repeal through reenactment by the Legislature.

29 | Section 2. The Legislature finds that it is a public
 30 | necessity to exempt from s. 119.07(1), Florida Statutes, and s.
 31 | 24(a), Article I of the State Constitution personal identifying
 32 | information about individuals held by the Department of
 33 | Transportation, a county, a municipality, or an expressway
 34 | authority for the purpose of paying, prepaying, or collecting
 35 | tolls and associated administrative charges due for the use of
 36 | toll facilities. The exemption puts individuals who pay for
 37 | tolls by TOLL-BY-PLATE, which is video billed, on equal footing
 38 | with individuals who pay for tolls by check, debit card, or
 39 | credit card, or who pay cash at the toll booth. The exemption
 40 | protects the health and safety of the public by making exempt
 41 | information regarding the locations, travel patterns, and travel
 42 | activity of individuals as they use the toll road system. The
 43 | exemption protects the anonymity of all travelers on toll roads,
 44 | not just cash customers, regardless of the method of payment of
 45 | tolls. The exemption also thereby promotes the use of the
 46 | electronic toll collection system, which is a more efficient and
 47 | effective government collection system for tolls, because paying
 48 | for tolls by TOLL-BY-PLATE, which is video billed, or paying for
 49 | tolls by check, debit card, or credit card not only saves
 50 | individuals time when passing through the toll facilities,
 51 | compared to individuals who pay for tolls with cash, but also
 52 | costs much less to administer. Further, the exemption protects

53 | the privacy of individuals and promotes their right to be let
54 | alone from unreasonable government intrusion by prohibiting the
55 | public disclosure of private information about the finances and
56 | location of the individual using the toll road system.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 14-01 OGSR Florida Insurance Guaranty Association
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. BILLS: SB 506

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

The Florida Insurance Guaranty Association (FIGA) is a nonprofit corporation that was created in 1970 to provide a mechanism for the payment of claims of insolvent property and casualty insurance companies in Florida. It operates under a board of directors with members appointed and approved by the Department of Financial Services based upon recommendations by the member insurers.

When a property and casualty insurance company becomes insolvent, FIGA is required to take over the claims of the insurer and pay the claims of the company's policyholders. This ensures that policyholders having paid premiums for insurance are not left without valid claims being paid.

Current law provides a public record exemption for certain FIGA records. Specifically, claims files, medical records, and records pertaining to matters reasonably encompassed in privileged attorney-client communications are confidential and exempt from public record requirements. FIGA may release the confidential and exempt records to a state agency, upon written request, and the state agency must maintain the confidential and exempt status of the records received.

The bill reenacts this public record exemption, which will repeal on October 2, 2014, 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.

Florida Insurance Guaranty Association

The Florida Insurance Guaranty Association (FIGA) is a nonprofit corporation that was created in 1970 to provide a mechanism for the payment of claims of insolvent property and casualty insurance companies in Florida.⁴ It operates under a board of directors⁵ with members appointed and approved by the Department of Financial Services based upon recommendations by the member insurers.⁶ FIGA's membership is composed of all Florida licensed direct writers of property or casualty insurance.⁷

When a property and casualty insurance company becomes insolvent, FIGA is required to take over the claims of the insurer and pay the claims of the company's policyholders. This ensures that policyholders having paid premiums for insurance are not left without valid claims being paid.

In assuming the obligation of certain existing covered claims,⁸ FIGA covers only the amount of each covered claim that is greater than \$100 and less than \$300,000, with certain exceptions. For damages

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 and exempt records.

⁴ Chapter 70-20, L.O.F.; codified as part II of chapter 631, F.S.

⁵ Section 631.55(1), F.S.

⁶ Section 631.56(1), F.S.

⁷ Section 631.55(1), F.S.

⁸ Section 631.54(3), F.S., defines the term "covered claim" to mean an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy to which part II of chapter

to structure and contents on homeowners' claims, the FIGA cap is an additional \$200,000, for a total of \$500,000.⁹ For condominium and homeowners' association claims, the cap is the lesser of policy limits or \$100,000 multiplied by the number of units in the association.¹⁰ All claims are subject to a \$100 FIGA deductible in addition to any deductible identified in the insurance policy.¹¹

FIGA obtains funds to pay claims of insolvent insurance companies, in part, from the liquidation of assets of these companies by the Division of Rehabilitation and Liquidation in the Department of Financial Services. FIGA also obtains funds from the liquidation of assets of insolvent insurers domiciled in other states but having claims in Florida. In addition, after insolvency occurs, FIGA can issue two types of assessments against property and casualty insurance companies to raise funds to pay claims – regular and emergency¹² assessments.

FIGA assesses solvent insurance companies directly for both assessments, and the insurance company is allowed to pass the assessment on to its policyholders. The maximum assessment in any one year is 2 percent of each affected insurer's net direct written premiums on property and casualty insurance policies in the state for the prior year.¹³

Public Record Exemption under Review

In 2009, the Legislature created a public record exemption for certain FIGA records.¹⁴ The following records are confidential and exempt¹⁵ from public record requirements:

- Claims files, until termination of all litigation, settlement, and final closing of all claims arising out of the same incident.¹⁶
- Medical records that are part of a claims file and information relating to the medical condition or medical status of a claimant.¹⁷
- Records pertaining to matters reasonably encompassed in privileged attorney-client communications.¹⁸

631, F.S., applies, issued by an insurer, if such insurer becomes an insolvent insurer and the claimant or insured is a resident of this state at the time of the insured event or the property from which the claim arises is permanently located in this state. For entities other than individuals, the residence of a claimant, insured, or policyholder is the state in which the entity's principal place of business is located at the time of the insured event. The term does not include:

(a) Any amount due any reinsurer, insurer, insurance pool, or underwriting association, sought directly or indirectly through a third party, as subrogation, contribution, indemnification, or otherwise;

(b) Any claim that would otherwise be a covered claim that has been rejected or denied by any other state guaranty fund based upon that state's statutory exclusions, including, but not limited to, those based on coverage, policy type, or an insured's net worth. Member insurers have no right of subrogation, contribution, indemnification, or otherwise, sought directly or indirectly through a third party, against the insured of any insolvent member; or

(c) Any amount payable for a sinkhole loss other than testing deemed appropriate by FIGA or payable for the actual repair of the loss, except that FIGA may not pay for attorney's fees or public adjuster's fees in connection with a sinkhole loss or pay the policyholder. FIGA may pay for actual repairs to the property but is not liable for amounts in excess of policy limits.

⁹ Section 631.57(1)(a)2., F.S.

¹⁰ Section 631.57(1)(a)3., F.S.

¹¹ Section 631.57(1)(a), F.S.

¹² Emergency assessments may only be issued to pay claims of insurers rendered insolvent due to a hurricane. See s. 631.57(3)(e), F.S.

¹³ See s. 631.57(3), F.S.

¹⁴ Chapter 2009-186, L.O.F.; codified as s. 631.582, F.S.

¹⁵ 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).

¹⁶ Section 631.582(1)(a), F.S.

¹⁷ Section 631.582(1)(b), F.S.

¹⁸ Section 631.582(1)(c), F.S.

Upon written request, such records may be released to any state agency in the furtherance of its official duties and responsibilities. The state agency must maintain the confidential and exempt status of the records received.¹⁹

Pursuant to the Open Government Sunset Review Act, the public record exemption will repeal on October 2, 2014, unless reenacted by the Legislature.²⁰

During the 2013 interim, subcommittee staff sent a questionnaire to FIGA as part of the Open Government Sunset Review process. As part of its questionnaire response, FIGA recommended reenactment of the public record exemption under review.²¹

Effect of the Bill

The bill removes the repeal date, thereby reenacting the public record exemption for FIGA's claims files, medical records that are part of a claims file and information relating to the medical condition or medical status of a claimant, and records pertaining to matters reasonably encompassed in privileged attorney-client communications.

B. SECTION DIRECTORY:

Section 1 amends s. 631.582, F.S., to save from repeal the public record exemption for certain records of the Florida Insurance Guaranty Association.

Section 2 provides an effective date of October 1, 2014.

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.

¹⁹ Section 631.582(2), F.S.

²⁰ Section 631.582(3), F.S.

²¹ The FIGA questionnaire response is on file with the Government Operations Subcommittee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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. 631.582, F.S., relating
 4 to an exemption from public record requirements for
 5 certain records of the Florida Insurance Guaranty
 6 Association; removing the scheduled repeal of the
 7 exemption; providing an effective date.

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

10
 11 Section 1. Section 631.582, Florida Statutes, is amended
 12 to read:

13 631.582 Public records exemption.—

14 (1) The following records of the Florida Insurance
 15 Guaranty Association are confidential and exempt from s.
 16 119.07(1) and s. 24(a), Art. I of the State Constitution:

17 (a) Claims files, until termination of all litigation,
 18 settlement, and final closing of all claims arising out of the
 19 same incident, although portions of the claims files may remain
 20 exempt, as otherwise provided by law.

21 (b) Medical records that are part of a claims file and
 22 other information relating to the medical condition or medical
 23 status of a claimant.

24 (c) Records pertaining to matters reasonably encompassed
 25 in privileged attorney-client communications.

26 (2) Records or portions of records made confidential and

PCB GVOPS 14-01

ORIGINAL

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27 exempt by this section may be released, upon written request, to
28 any state agency in the performance of that agency's official
29 duties and responsibilities. The receiving agency shall maintain
30 the confidential and exempt status of such record or portion of
31 such record.

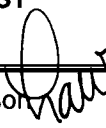
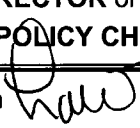
32 ~~(3) This section is subject to the Open Government Sunset~~
33 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
34 ~~on October 2, 2014, unless reviewed and saved from repeal~~
35 ~~through reenactment by the Legislature.~~

36 Section 2. This act shall take effect October 1, 2014.

37

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 14-02 OGSR Scripps Florida Funding Corporation
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. BILLS: SPB 7032

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

In a 2003 special session, the Legislature created the Scripps Florida Funding Corporation (corporation), which is a 10-member, not-for-profit board. The corporation is responsible for monitoring its 20-year agreement with The Scripps Research Institute (Scripps) for the establishment of a state-of-the-art biomedical research facility in Florida, and disbursing state funds on a schedule that coincides with the Florida facility meeting job-creation targets and other specified performance requirements. The Scripps Florida facility (Scripps Florida) is a division of Scripps that focuses on basic biomedical science, drug discovery, and technology development.

Current law provides a public record exemption for the following information held by the corporation:

- Materials that relate to methods of manufacture or production, potential trade secrets, patentable material, actual trade secrets, or proprietary information received, generated, ascertained, or discovered by or through Scripps or Scripps Florida.
- Agreements and proposals to receive funding, including grant applications.
- Materials that relate to the recruitment of scientists and researchers.
- The identity of donors or potential donors to Scripps who wish to remain anonymous.
- Certain information received from a person from another state or nation or the Federal Government.
- Personal identifying information of individuals who participate in human trials or experiments.
- Medical or health records relating to participants in clinical trials.

In addition, corporation meetings wherein such confidential and exempt information is discussed are exempt from public meeting requirements.

The bill repeals the public record and public meeting exemptions, because the corporation has indicated that it operates in the sunshine and does not receive such confidential and exempt information.

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.

Scripps Florida Funding Corporation

In a 2003 special session, the Legislature created the Scripps Florida Funding Corporation (corporation), a 10-member, not-for-profit board⁴ responsible for:

- Monitoring its 20-year agreement with The Scripps Research Institute (Scripps)⁵ for the establishment of a state-of-the-art biomedical research facility in Florida; and
- Disbursing state funds on a schedule that coincides with the Florida facility meeting job-creation targets and other specified performance requirements.⁶

The corporation is not a unit or entity of the state; however, it is subject to Florida's public record and open meeting laws.⁷

The Legislature appropriated \$310 million to the project. The source of the money was federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of

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 and exempt records.

⁴ The board of directors consists of nine voting members and an ex-officio, nonvoting member. The Governor, President of the Senate, and Speaker of the House of Representatives each appoint three voting members. The executive director of the Department of Economic Opportunity serves as the ex-officio, nonvoting member. Section 288.955(4)(a), F.S.

⁵ The Scripps Research Institute is based in La Jolla, California.

⁶ Chapter 2003-420, L.O.F.; codified as s. 288.955, F.S.

⁷ Section 288.955(2)(b), F.S.

2003.⁸ In addition, Palm Beach County provided an economic package that included funding for land and construction of temporary laboratories, the current permanent campus, and related costs.⁹

The state funds are disbursed over a 10-year period, which began in 2004.¹⁰ Undisbursed funds are invested by the State Board of Administration on behalf of the corporation.¹¹

According to the corporation's 2013 Annual Report, it has disbursed \$308,750,000 since inception, plus \$40,323,073 in interest.¹² As of September 30, 2013, the Scripps Florida facility had employed 528 people;¹³ under the terms of its agreement with the corporation, the Florida facility is required to hire 545 employees by 2014.¹⁴

The Scripps Florida Facility

The Scripps Florida facility (Scripps Florida) is a Scripps Research Institute that adjoins the Florida Atlantic University campus in Palm Beach County. It is not an independent research institute, but is a division of Scripps. Scripps Florida focuses on basic biomedical science, drug discovery, and technology development.¹⁵

Public Record and Public Meeting Exemptions under Review

During the 2003 special session in which the corporation was created, the Legislature also created a public record and public meeting exemption for the corporation and the Office of Tourism, Trade, and Economic Development.^{16, 17} Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions were scheduled to repeal on October 2, 2009; however, the Legislature reenacted the exemptions with changes.¹⁸

Currently, the following information held by the corporation is confidential and exempt¹⁹ from public record requirements:

- Materials that relate to methods of manufacture or production, potential trade secrets,

⁸ Section 5, chapter 2003-420, L.O.F.

⁹ Information provided at: <http://www.scripps.edu/florida/about/> (last visited February 3, 2014).

¹⁰ Scripps Florida Funding Corporation Annual Report for the year ended September 30, 2013 (2013 Annual Report), at 3, available at: <http://www.scripps.edu/florida/about/annual-rpt.html> (last visited February 3, 2014).

¹¹ Section 288.955(7), F.S.

¹² 2013 Annual Report, at 36.

¹³ The employees include 54 faculty positions, 337 scientific staff positions, and 137 administration positions. Faculty positions include tenure track professors, associate professors, and assistant professors. Scientific staff positions include non-tenure track scientists (research faculty and staff scientists), research associates/post-docs, lab technicians, and Scripps paid graduate students. Administration positions include all other support personnel. *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 3.

¹⁶ Chapter 2011-142, L.O.F., transferred by a type two transfer all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to the Department of Economic Opportunity.

¹⁷ Chapter 2003-419, L.O.F.; codified as s. 288.9551, F.S.

¹⁸ Chapter 2009-236, L.O.F.

¹⁹ 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).

patentable material, actual trade secrets,²⁰ or proprietary information received, generated, ascertained, or discovered by or through Scripps or Scripps Florida.²¹

- Agreements and proposals to receive funding, including grant applications.²²
- Materials that relate to the recruitment of scientists and researchers.²³
- The identity of donors or potential donors to Scripps who wish to remain anonymous.²⁴
- Information received from a person from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or nation or pursuant to federal law.²⁵
- Personal identifying information of individuals who participate in human trials or experiments.²⁶
- Medical or health records relating to participants in clinical trials.²⁷

In addition, those portions of meetings held by the corporation's board of directors, during which confidential and exempt information is presented or discussed, are exempt from public meeting requirements.²⁸ Records generated during those closed meetings are confidential and exempt from public record requirements.²⁹

Current law also requires that public employees be permitted to inspect and copy the confidential and exempt information in the furtherance of their duties and responsibilities.³⁰

Any person who willfully and knowingly violates the public record or public meeting exemption commits a misdemeanor of the second degree.³¹ A misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days,³² and a fine not to exceed \$500.³³

Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions will repeal on October 2, 2014, unless reenacted by the Legislature.³⁴

During the 2013 interim, subcommittee staff sent a questionnaire to the corporation as part of the Open Government Sunset Review process. The corporation recommended repealing the public record and public meeting exemptions under review, because it "operates in the sunshine and does not hold, gather or disseminate proprietary information about Scripps Florida business or technologies."³⁵

²⁰ The exemption provides a public record exemption for an actual trade secret as defined in s. 688.002, F.S. Section 688.002(4), F.S., defines the term "trade secret" to mean information, including a formula, pattern, compilation, program, device, method, technique, or process that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

²¹ Section 288.9551(2)(a), F.S.

²² Those portions of agreements and proposals to receive funding, including grant applications, that do not contain confidential and exempt information, are not confidential and exempt upon issuance of the report that is made after the conclusion of the project for which funding was provided. In addition, the public record exemption does not apply to any agreement between the corporation and Scripps that governs the release of the state funds. Section 288.9551(2)(b), F.S.

²³ Section 288.9551(2)(c), F.S.

²⁴ Section 288.9551(2)(d), F.S.

²⁵ Section 288.9551(2)(e), F.S.

²⁶ Section 288.9551(2)(f), F.S.

²⁷ Section 288.9551(2)(g), F.S.

²⁸ Section 288.9551(3)(a), F.S.

²⁹ Section 288.9551(3)(b), F.S.

³⁰ Section 288.9551(4), F.S.

³¹ Section 288.9551(5), F.S.

³² Section 775.082(4)(b), F.S.

³³ Section 775.083(1)(e), F.S.

³⁴ Section 288.9551(6), F.S.

³⁵ Open Government Sunset Review Questionnaire for the Scripps Florida Funding Corporation, received September 10, 2013, at question 13 (on file with the Government Operations Subcommittee).

Effect of the Bill

The bill repeals s. 288.9551, F.S., thereby repealing the public record and public meeting exemptions for the Scripps Florida Funding Corporation.

B. SECTION DIRECTORY:

Section 1 repeals s. 288.9551, F.S., which provides public record and public meeting exemptions for the Scripps Florida Funding Corporation.

Section 2 provides an effective date of October 1, 2014.

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:

None.

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; repealing s. 288.9551, F.S., which
4 provides an exemption from public record and public
5 meeting requirements for certain records and meetings
6 of the Scripps Florida Funding Corporation; providing
7 an effective date.

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

10
11 Section 1. Section 288.9551, Florida Statutes, is
12 repealed.

13 Section 2. This act shall take effect October 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 14-03 OGSR Dependent Children Insured by an Agency Group Insurance Plan
SPONSOR(S): Government Operations Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Williamson <i>haw</i>	Williamson <i>haw</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 a public record exemption for certain information regarding dependent children of agency officers and employees. Specifically, personal identifying information of such depend child is exempt from public record requirements when that child is insured under an agency group insurance plan.

The bill reenacts this public record exemption, which will repeal on October 2, 2014, 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.

Enrollees in an Agency Group Insurance Plan

In a case decided in October 2008,⁴ the School Board of Polk County was ordered to disclose, in response to a public record request, public records regarding the school district's health insurance policy and the name, address, gender, age, title, and telephone number of both agency employees and dependents covered by the policy. The circuit court found that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) was not applicable to the case at hand and that the request sought only non-exempt information under Florida law.

Subsequently, in response to a letter from former State Senator Dockery, the Florida Attorney General's Office issued an informal advisory legal opinion⁵ as to whether ss. 112.08(7)⁶ and 119.071(4)(b),⁷ F.S., preclude the release of information that identifies school district employees, their dependents, and their health insurance plans. The attorney general concluded that while information

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 and exempt records.

⁴ *Chandler v. School Board of Polk County*, Case No. 2008CA-004389.

⁵ Informal opinion, November 10, 2008.

⁶ Section 112.08(7), F.S., provides a public record exemption for all medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan.

⁷ Section 119.071(4)(b), F.S., provides a public record exemption for medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee. This exemption is now found in s. 119.071(4)(b)1., F.S.

relating to an insurance program participant's medical condition is clearly protected from disclosure, it is unclear whether the protection from disclosure extends to an enrollee's personal identifying information.

Public Record Exemption under Review

In 2009, the Legislature created a public record exemption for certain information regarding dependent children of agency⁸ officers and employees.⁹ Specifically, personal identifying information of a dependent child of a current or former agency officer or employee, when such child is insured under an agency group insurance plan, is exempt¹⁰ from public record requirements.¹¹ For purposes of the exemption, "dependent child" means any unemancipated person under the age of 18, any person under the age of 21 and still in school, or any person who is mentally or physically incapacitated when such incapacity began prior to such person reaching the age of 18.¹²

Current law provides for retroactive application¹³ of the public record exemption under review.¹⁴

Pursuant to the Open Government Sunset Review Act, the public record exemption will repeal on October 2, 2014, unless reenacted by the Legislature.¹⁵

During the 2013 interim, subcommittee staff sent questionnaires to agencies as part of the Open Government Sunset Review process. Of the 22 agencies that responded, 17 recommended reenactment, four had no position or recommendation, and one recommended repeal of the exemption.¹⁶

Effect of the Bill

The bill removes the repeal date, thereby reenacting the public record exemption for personal identifying information of a dependent child of a current or former agency officer or employee when such child is insured under an agency group insurance plan.

B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., to save from repeal the public record exemption for personal identifying information of certain dependent children of current or former agency officers or employees.

Section 2 provides an effective date of October 1, 2014.

⁸ Section 119.011(2), F.S., defines the term "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 chapter 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

⁹ Chapter 2009-104, L.O.F.; codified as s. 119.071(4)(b)2., F.S.

¹⁰ 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).

¹¹ Section 119.071(4)(b)2.a., F.S.

¹² The exemption provides that the term "dependent child" has the same meaning as in s. 409.2554, F.S.

¹³ 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. Access to public records is a substantive right. Thus, a statute affecting that right is presumptively prospective and there must be a clear legislative intent for the statute to apply retroactively. See *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

¹⁴ Section 119.071(4)(b)2.b., F.S.

¹⁵ Section 119.071(4)(b)2.c., F.S.

¹⁶ Agency responses to the questionnaire are on file with the Government Operations Subcommittee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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. 119.071, F.S., relating
 4 to an exemption from public record requirements for
 5 personal identifying information of certain dependent
 6 children of current or former agency officers or
 7 employees; making an editorial change; removing the
 8 scheduled repeal of the exemption; providing an
 9 effective date.

10

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

12

13 Section 1. Paragraph (b) of subsection (4) of section
 14 119.071, Florida Statutes, is amended to read:

15 119.071 General exemptions from inspection or copying of
 16 public records.—

17 (4) AGENCY PERSONNEL INFORMATION.—

18 (b)1. Medical information pertaining to a prospective,
 19 current, or former officer or employee of an agency which, if
 20 disclosed, would identify that officer or employee is exempt
 21 from s. 119.07(1) and s. 24(a), Art. I of the State
 22 Constitution. However, such information may be disclosed if the
 23 person to whom the information pertains or the person's legal
 24 representative provides written permission or pursuant to court
 25 order.

26 2.a. Personal identifying information of a dependent child

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27 of a current or former officer or employee of an agency, which
28 dependent child is insured by an agency group insurance plan, is
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution. For purposes of this exemption, "dependent child"
31 has the same meaning as in s. 409.2554.

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

35 ~~e. This subparagraph is subject to the Open Government~~
36 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
37 ~~repealed on October 2, 2014, unless reviewed and saved from~~
38 ~~repeal through reenactment by the Legislature.~~

39 Section 2. This act shall take effect October 1, 2014.