

Tab 1	SB 774 by Pizzo ; Identical to H 00451 911 Public Safety Telecommunicator Employment-related Mental or Nervous Injuries
Tab 2	SPB 7028 by GO ; Retirement
Tab 3	SPB 7024 by GO ; OGSR/Cybersecurity, Information Technology, and Operational Technology Information
Tab 4	SPB 7026 by GO ; OGSR/Trade Secret Held by an Agency

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Mayfield, Chair
 Senator DiCeglie, Vice Chair

MEETING DATE: Tuesday, January 20, 2026

TIME: 3:30—5:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Mayfield, Chair; Senator DiCeglie, Vice Chair; Senators Arrington, Bracy Davis, Brodeur, Grall, McClain, Polsky, and Rodriguez

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 774 Pizzo (Identical H 451)	<p>911 Public Safety Telecommunicator Employment-related Mental or Nervous Injuries; Defining the term “911 public safety telecommunicator”; providing that specified provisions relating to certain medical benefits for mental or nervous injuries for first responders also apply to 911 public safety telecommunicators, etc.</p> <p>GO 01/20/2026 AEG FP</p>	
Consideration of proposed bill:			
2	SPB 7028	<p>Retirement; Authorizing an elected officer, except while serving as a legislator, to remain in elective office and receive accumulated Deferred Retirement Option Program (DROP) proceeds after the officer attains a certain age; requiring the Division of Retirement or the State Board of Administration, as appropriate, to take steps to recoup from the elected officer any DROP proceeds distributed in accordance with a specified provision, under specified circumstances; revising the cost-of-living adjustment for eligible Special Risk Class retirees, etc.</p>	
Consideration of proposed bill:			
3	SPB 7024	<p>OGSR/Cybersecurity, Information Technology, and Operational Technology Information; Providing an exemption from public records requirements for the cybersecurity, information technology, and operational technology information held by an agency; providing an exemption from public meetings requirements for any portion of a meeting that would reveal such information; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.</p>	
Consideration of proposed bill:			

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Tuesday, January 20, 2026, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SPB 7026	OGSR/Trade Secret Held by an Agency; Amending a provision which provides an exemption from public records requirements for a trade secret held by an agency, etc.	

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 774

INTRODUCER: Senator Pizzo

SUBJECT: 911 Public Safety Telecommunicator Employment-related Mental or Nervous Injuries

DATE: January 16, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>FP</u>	_____

I. Summary:

SB 774 extends enhanced workers' compensation benefits to 911 public safety telecommunicators for employment-related accidents and injuries. For a mental or nervous injury arising out of employment but unaccompanied by a physical injury, only medical benefits will be payable to a 911 public safety telecommunicator pursuant to workers' compensation. These benefits for a 911 public safety telecommunicator are not subject to the limitation on temporary benefits under s. 440.093, F.S.

The impact of this bill on state and local government expenditures is negative but indeterminate.

The bill takes effect on July 1, 2026.

II. Present Situation:

Diagnosis of Posttraumatic Stress Disorder

According to the American Psychiatric Association, Posttraumatic Stress Disorder (PTSD) is a psychiatric disorder that may occur in people who have experienced or witnessed a traumatic event, such as a natural disaster, serious accident, terrorist act, war, or rape; or people who have been threatened with death, sexual violence, or serious injury.¹ Exposure to an upsetting traumatic event may be indirect rather than first hand. PTSD can occur if a person learns of the violent death of a close family member or friend or if he or she is repeatedly exposed to the horrible details of trauma.²

¹ American Psychiatric Association, *What is Posttraumatic Stress Disorder (PTSD)?*, <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd>, (last visited Jan. 16, 2026).

² *Id.*

Symptoms of PTSD may begin shortly after the traumatic event or may not appear until years after the event. For a person to be diagnosed with PTSD, symptoms must last for more than one month and must cause significant distress or interfere with the individual's daily functioning.³

Symptoms may include flashbacks, nightmares, severe anxiety, and uncontrollable thoughts about the event. This can lead to avoidance of any stimuli that recalls the traumatic events, negative thoughts about oneself or the world, and changes in emotional reactions to events, like being easily startled or having trouble sleeping or concentrating.⁴

Rates of PTSD are higher among veterans, police officers, firefighters, and emergency medical personnel.⁵

Florida Workers' Compensation System

Workers' compensation is a no-fault system that provides medical benefits and compensation for lost wages when an employee is injured or killed in the course of employment. Employers must secure coverage and may do so by purchasing insurance from an authorized carrier, qualifying as a self-insurer, or purchasing coverage from the Florida Workers' Compensation Joint Underwriting Association, which is the state-sponsored insurer of last resort. In return for providing compensation, the employer is relieved of civil tort liability for workplace injuries and may only be sued for intentional acts that result in injury or death.⁶

In addition to on-the-job injuries, employers may be required to pay compensation or furnish benefits if an occupational disease causes death or disablement.⁷ The term "occupational disease" means a disease that arises out of employment as a first responder and is due to causes and conditions that are characteristic of and peculiar to a particular trade, occupation, process, or employment and excludes all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public.⁸ In cases involving occupational disease, both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace to support causation must be proven by a preponderance of the evidence.

In general, an occupational disease is compensable if:

- A condition peculiar to the occupation causes the disease;
- Epidemiological studies show exposure to a specific substance involved, at the levels to which the employee was exposed, may cause the disease;
- The disease is the result of the *nature of the employment*, meaning the occupation presents a particular hazard of the disease or the incidence of the disease is substantially higher in the occupation than in the public;

³ *Id.*

⁴ Mayo Clinic, *Post-traumatic stress disorder (PTSD)*, <https://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967> (last visited Jan. 16, 2026).

⁵ Institutes of Public Health, *PTSD in First Responders*, <https://institutesofhealth.org/ptsd-in-first-responders> (last visited Jan. 16, 2026).

⁶ Sections 440.015, 440.09, 440.10, 440.38, and 627.313, F.S.

⁷ Section 440.151(1), F.S.

⁸ Section 112.1815(4), F.S.

- The disease is contracted during the course and scope of employment; and
- The nature of the employment is the *major contributing cause* of the disease, meaning the cause is more than 50 percent responsible for the disease as compared to all other causes combined, as demonstrated by medical evidence only.⁹

Benefits for Temporary and Permanent Disability

An employer must pay compensation or furnish benefits if an employee suffers a compensable injury or death “arising out of work performed in the course and scope of employment.”¹⁰

Medical Benefits

Employees are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prostheses, for as long as the nature of the injury and process of recovery requires.¹¹

Indemnity Benefits

Payments for lost wages, known as indemnity benefits, may be required if an injured employee is unable to work, as determined by an authorized medical provider, and typically begin on the eighth day after the employee loses time from work.¹² Indemnity benefits fall into four categories:

- Permanent Total Disability – In the case of total disability adjudged to be permanent (i.e., the employee is unable to engage in any type of employment), the employer or its insurance carrier must pay two-thirds of the employee’s average weekly wages until the employee reaches the age of 75.¹³
- Temporary Total Disability – In the case of disability total in character but temporary in quality, the employer or its insurance carrier must pay two-thirds of the employee’s average weekly wages until the employee returns to work or reaches maximum medical improvement, but in no event more than 260 weeks (five years).¹⁴
- Permanent Impairment¹⁵ – Where an employee has reached maximum medical improvement, is able to return to work, but has a permanent, but partial, physical impairment, the Three-Member Panel¹⁶ establishes and uses an impairment rating schedule which represents a

⁹ Sections 440.09, and 440.151, F.S.

¹⁰ Section 440.09(1), F.S.

¹¹ Section 440.13(2)(a), F.S.

¹² Sections 440.14(1) and 440.20(2)(a), F.S.

¹³ Section 440.15(1), F.S.

¹⁴ Section 440.15(2)(a), F.S., limits disability benefits to 104 weeks (two years), but the Florida Supreme Court held that this limit was unconstitutional and directed that a prior limit of 260 weeks (five years) be reinstated. *See Westphal v. City of St. Petersburg*, 194 So. 3d 311 (Fla. 2016).

¹⁵ “Impairment” assumes the employee has *some* earning capacity despite the impairment, while the “disability” assumes the injury has caused a *total loss* of earning capacity. *See Brannon v. Tampa Tribune*, 711 So. 2d 97, 98 (Fla. 1st DCA 1998) (comparing the classifications of “permanent impairment” with “permanent total disability” for the purposes of ch. 440, F.S., workers’ compensation claims).

¹⁶ The Three-Member Panel consists of the Chief Financial Officer, or his or her designee, and two members appointed by the Governor, subject to confirmation by the Senate. Section 440.13, F.S.

percentage of disability to the body as a whole; a monetary benefit is calculated based on the percentage of impairment.¹⁷

- Temporary Partial Disability – Where an employee may work with restrictions, the employer or its insurance carrier must pay 80 percent of the difference between his or her weekly earnings prior to injury and post-injury. Payments may be required for up to 260 weeks.¹⁸

The minimum payment is \$20 per week and the maximum payment is 100 percent of the statewide average weekly wage, which is based on the average weekly wage paid by employers' subject to the Florida Reemployment Assistance Program Law as reported to the Department of Commerce.¹⁹ Payments to injured workers who earn more than the statewide average weekly wage are capped at the statewide average weekly wage that was in effect on the date of injury.²⁰

General Rules of Compensability for Mental or Nervous Injuries

Mental or nervous injuries may be compensable, but only if the injury is accompanied by a physical injury that requires medical treatment. Thus, if a workplace accident causes both a physical injury and a related mental or nervous injury, both may be compensable so long as the physical injury that requires medical treatment is the major contributing cause (at least 50 percent responsible) of the mental or nervous injury. A mental or nervous injury caused by "stress, fright, or excitement" is not compensable even if accompanied by a medically treated physical injury.²¹

As discussed above, an employee who is temporarily disabled by a workplace injury is eligible for up to 260 weeks of disability benefits, which typically results in payment of about two-thirds of the employee's regular wages, beginning on the eighth day after the employee loses time from work.²² However, temporary disability benefits caused by a mental or nervous injury are limited to six months after a claimant reaches maximum medical improvement for the physical injury that triggered the mental or nervous injury.²³

For employees who are not first responders, benefits for mental or nervous injuries: (1) may last no longer than six months from the date of the maximum medical improvement from the physical injury;²⁴ and (2) may not exceed the one-percent limit on permanent psychiatric impairment benefits.²⁵

Special Rules for First Responders

Section 112.1815, F.S., grants "first responders" relaxed standards to make it easier for these personnel to qualify for worker compensation benefits.

¹⁷ Section 440.15(3), F.S.

¹⁸ Section 440.15(4), F.S.

¹⁹ Section 440.12(2), F.S.

²⁰ *Id.*

²¹ Section 440.093, F.S.

²² *See supra* note 14.

²³ Section 440.093(3), F.S.

²⁴ Section 440.093, F.S.

²⁵ Section 440.15(3)(c), F.S.

The term “first responder” includes:

- A law enforcement officer as defined in s. 943.10, F.S.;
- A firefighter as defined in s. 633.102; and
- An emergency medical technician or paramedic as defined in 401.23.²⁶

These personnel must be employed by state or local government; although “volunteer” law enforcement officers, firefighters, EMTs, and paramedics “engaged” by a state or local government are considered first responders for this law.²⁷

When determining benefits under s. 112.1815, F.S., the following apply:

- An injury or disease caused by exposure to a toxic substance is not an injury by accident arising out of employment unless there is a preponderance of the evidence establishing that exposure to the specific substance involved, at the levels the first responder was exposed, can cause the injury or disease sustained by the first responder.
- An adverse result or complication caused by the smallpox vaccination of a first responder is deemed an injury by accident arising out of work performed in the course and scope of employment.
- A mental or nervous injury involving a first responder and occurring as a manifestation of a compensable injury must be demonstrated by clear and convincing evidence. For a mental or nervous injury arising out of employment that is unaccompanied by a physical injury involving a first responder, only medical benefits under the workers’ compensation program shall be payable for the mental or nervous injury. However, payment of indemnity as provided in s. 440.15, F.S., may not be made unless a physical injury arising out of employment as a first responder accompanies the mental or nervous injury. Benefits for a first responder are not subject to any limitation on temporary benefits under s. 440.093, F.S., or the one-percent limitation on permanent psychiatric impairment benefits under s. 440.13(3)(c), F.S.²⁸

Medical benefits and compensation for lost wages for first responders who are diagnosed with PTSD (as described by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association) are permitted.

PTSD suffered by a first responder is a compensable occupational disease if:

- The PTSD resulted from the first responder acting within the course of his or her employment; and
- The first responder is examined and subsequently diagnosed with such disorder by a licensed psychiatrist, in person or through telehealth, due to one of the following events:
 - Seeing a deceased minor;
 - Directly witnessing the death of a minor;
 - Directly witnessing an injury to a minor who subsequently dies before or upon arrival at a hospital emergency department;
 - Participating in the treatment of an injured minor who subsequently dies before or on arrival at a hospital emergency department;

²⁶ Section 112.1815(1), F.S.

²⁷ *Id.*

²⁸ Section 112.1815(2)(a), F.S.

- Manually transporting an injured minor who subsequently dies before or on arrival at a hospital emergency department;
- Seeing a decedent whose death was due to grievous bodily harm of a nature that shocks the conscience;
- Directly witnessing a death (including suicide) that involved grievous bodily harm of a nature that shocks the conscience;
- Directly witnessing a homicide, whether criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence;
- Directly witnessing an injury (including an attempted suicide) to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
- Participating in the treatment of an injury (including attempted suicide) to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; or
- Manually transporting a person who was injured (including by attempted suicide) who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.²⁹

The PTSD must be demonstrated by clear and convincing evidence.³⁰ However, benefits for a first responder do not require a physical injury and are not subject to:

- Apportionment due to a preexisting PTSD;
- Any limitation on temporary benefits; or
- The one-percent limitation on permanent psychiatric impairment benefits.³¹

Permanent total supplemental benefits received by a first responder whose employer does not participate in the social security program do not terminate after the first responder attains the age of 62.³²

Eligibility of First Responders and Correctional Officers for PTSD Benefits

To be eligible for workers' compensation benefits for PTSD, the above-mentioned first responders and correctional officers must demonstrate that they were acting within the scope of employment when they experienced a qualifying event,³³ that they were diagnosed with PTSD by the employer or carrier's authorized treating physician,³⁴ and that they reported the injury to their employer within 90 days of a qualifying event or the manifestation of PTSD, whichever is later.³⁵ If the employer or carrier denies benefits, the employee must file a claim for benefits within one year after the qualifying event or diagnosis of PTSD, whichever is later.³⁶

²⁹ Section 112.1815(5)(a), F.S.

³⁰ Section 112.1815(5)(b), F.S.

³¹ Section 112.1815(5)(c), F.S.

³² Section 112.1815(3), F.S.

³³ Sections 112.1815(5) and 112.18155(2)(a)1, F.S.

³⁴ Sections 112.1815(5)(a)2 and 112.18155(2)(b), F.S.

³⁵ Sections 112.1815(5)(d) and 112.18155(5), F.S.

³⁶ *Id.*

The Division of Workers' Compensation within the Department of Financial Services adopted Rule 69L-3.009, F.A.C., to specify the types of injuries that qualify as grievous bodily harm of a nature that shocks the conscience. This rule is used to administer s. 112.1815, F.S., relating to specified first responders (for firefighters, paramedics, emergency medical technicians, and law enforcement officers) and s. 112.18155, F.S., relating to correctional officers.

III. Effect of Proposed Changes:

Section 1 amends s. 112.1815, F.S., to extend benefits relating to employment-related accidents and injuries to 911 public safety telecommunicators. For a mental or nervous injury arising out of employment but unaccompanied by a physical injury, only medical benefits will be payable to a 911 public safety telecommunicator pursuant to workers' compensation. These benefits for a 911 public safety telecommunicator are not subject to the limitation on temporary benefits under s. 440.093, F.S.

Section 2 provides that this act takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18(a) of the State Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds. . . unless the legislature has determined that such law fulfills an important state interest and unless: . . . the law requiring such expenditure is approved by two-thirds of the membership of each house of the legislature. . . or the expenditure is required to comply with a law that applies to all persons similarly situated...

This bill does not include any legislative findings that the bill fulfills important state interests. However, if there was a finding that the bill fulfilled an important state interest, the bill may be an exception for laws that apply to similarly situated persons (both state and local governments). The bill appears to apply to all persons similarly situated (those employers employing 911 public safety telecommunicators), including state agencies, state universities, community colleges, counties, municipalities, and special districts.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The costs of medical services and supplies under the Florida workers' compensation law related to the new claims based on the changes made in this bill have not been determined.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 112.1815 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Pizzo

37-01186-26

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

14 Section 1. Subsection (1) and paragraph (a) of subsection
15 (2) of section 112.1815, Florida Statutes, are amended to read:
16 112.1815 Firefighters, paramedics, emergency medical
17 technicians, and law enforcement officers, and 911 public safety
18 telecommunicators; special provisions for employment-related
19 accidents and injuries.—

20 (1) As used in this section, the term

(a) "911 public safety telecommunicator" has the same meaning as in s. 401.465(1).

(b) "First responder" as used in this section means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or paramedic as defined in s. 401.23 employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of

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30 the state or local government for purposes of this section.

31 (2) (a) For the purpose of determining benefits under this

32 section relating to employment-related accidents and injuries of

33 first responders and 911 public safety telecommunicators, the

34 following shall apply:

35 1. An injury or disease caused by the exposure to a toxic

36 substance is not an injury by accident arising out of employment

37 unless there is a preponderance of the evidence establishing

38 that exposure to the specific substance involved, at the levels

39 to which the first responder was exposed, can cause the injury

40 or disease sustained by the employee.

41 2. Any adverse result or complication caused by a smallpox

42 vaccination of a first responder is deemed to be an injury by

43 accident arising out of work performed in the course and scope

44 of employment.

45 3. A mental or nervous injury involving a first responder

46 or a 911 public safety telecommunicator and occurring as a

47 manifestation of a compensable injury must be demonstrated by

48 clear and convincing evidence. For a mental or nervous injury

49 arising out of the employment unaccompanied by a physical injury

50 involving a first responder or a 911 public safety

51 telecommunicator, only medical benefits under s. 440.13 shall be

52 payable for the mental or nervous injury. However, payment of

53 indemnity as provided in s. 440.15 may not be made unless a

54 physical injury arising out of injury as a first responder

55 accompanies the mental or nervous injury. Benefits for a first

56 responder are not subject to any limitation on temporary

57 benefits under s. 440.093 or the 1-percent limitation on

58 permanent psychiatric impairment benefits under s. 440.15(3)(c).

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59 Benefits for a 911 public safety telecommunicator are not
60 subject to any limitation on temporary benefits under s.
61 440.093.

62 Section 2. This act shall take effect July 1, 2026.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7028

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Retirement

DATE: January 16, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McVaney</u>	<u>McVaney</u>	_____	Pre-meeting

I. Summary:

SPB 7028 establishes the contribution rates paid by employers that participate in the Florida Retirement System (FRS), beginning July 1, 2026. These rates are intended to fund the full normal cost and the amortization of the unfunded actuarial liability (UAL) of the FRS. With these modifications to employer contribution rates, the FRS Trust Fund will receive roughly \$20.5 million more in revenue on an annual basis beginning July 1, 2026, when compared to the employer contributions generated based on the current statutory contribution rates. The public employers that will experience contribution changes are state agencies, state universities and colleges, school districts, counties, municipalities, and other governmental entities that participate in the FRS.

The bill also allows an elected officer, other than an officer serving as a legislator, who has completed his or her Deferred Optional Retirement Program (DROP) participation, to receive the DROP accumulations after reaching 59½ years of age without terminating from the office. This is the only authorized in-service distribution for the FRS.

The Department of Management Services and the State Board of Administration must take appropriate steps to recoup any DROP accumulations distributed to an elected officer if the DROP accumulations would have been subject to forfeiture based on the elected officer's conviction of certain crimes.

The bill establishes an alternative cost-of-living adjustment for eligible Special Risk Class members. Beginning July 1, 2026, and each July 1 thereafter, an eligible special risk class member who has been retired for at least five years will receive a cost-of-living increase of no less than 1.5%. To be eligible, the retiree must have completed either 6 years (if initially enrolled in the FRS prior to July 1, 2011) or 8 years (otherwise) of creditable service in the Special Risk Class.

The bill will increase the state funds appropriated by the Legislature for employee benefits. The bill will increase the amounts, in the aggregate, that employers participating in the FRS must contribute for retiree benefits. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2026.

II. Present Situation:

The Florida Retirement System (FRS)

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with active members contributing three percent of their salaries.²

The FRS is a multi-employer plan, governed by ch. 121, F.S., the "Florida Retirement System Act." As of June 30, 2025, the FRS had 659,233 active non-retired members, 459,428 annuitants, 14,171 disabled retirees, and 29,017 active participants of the Deferred Retirement Option Program (DROP).³ As of December 2025, the FRS consisted of 1,000 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and includes the 187 cities and 151 special districts that have elected to join the system.⁴

The membership of the FRS is divided into five membership classes:

- The Regular Class⁵ consists of 562,840 active members and 9,932 in renewed membership;
- The Special Risk Class⁶ includes 79,529 active members and 1,379 in renewed membership;
- The Special Risk Administrative Support Class⁷ has 97 active members and three in renewed membership;

¹ Florida Department of Management Services (DMS), Division of Retirement, *Florida Retirement System Summary Plan Description*, (July 1, 2025), <https://frs.fl.gov/forms/spd-pp.pdf> (last visited Jan. 11, 2026).

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011. *See*, ch. 2011-68, s. 33, Laws of Fla. Members in the Deferred Retirement Option Program do not contribute to the system.

³ DMS, Division of Retirement, *Florida Retirement System Pension Plan and Other State Administered Retirement Systems Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2025*, at 203, https://frs.fl.gov/forms/2024-25_ACFR.pdf (last visited Jan. 11, 2026).

⁴ DMS, Division of Retirement, *Participating Employers for Fiscal Year 2025-2026* (Dec. 2025), <https://frs.fl.gov/forms/part-emp.pdf> (last visited Jan. 11, 2026).

⁵ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁶ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S. *See also*, DMS, *FRS Pension Plan Member Handbook* (2025), https://frs.fl.gov/forms/member_handbook.pdf (last visited Jan. 11, 2026).

⁷ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

- The Elected Officers' Class⁸ has 2,148 active members and 105 in renewed membership; and
- The Senior Management Service Class⁹ has 7,871 active members and 253 in renewed membership.¹⁰

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:¹¹

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan.¹²

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.¹³

A member vests immediately in all employee contributions paid to the investment plan.¹⁴ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹⁵ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁶ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁷ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁸

⁸ The Elected Officers' Class includes elected state and county officers, and those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁹ The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

¹⁰ All figures are from *Florida Retirement System Pension Plan and Other State Administered Retirement Systems Annual Comprehensive Financial Report Fiscal Year Ended June 30, 2025*, at 226.

¹¹ Florida State Board of Administration (SBA), *Plan Comparison Chart* (Jul. 2020), <https://www.myfrs.com/pdf/forms/planccomparison.pdf> (last visited Jan. 11, 2026).

¹² See, ch. 2000-169, Laws of Fla.

¹³ Section 121.4501(1), F.S.

¹⁴ Section 121.4501(6)(a), F.S.

¹⁵ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

¹⁶ Section 121.591, F.S.

¹⁷ See s. 121.4501(16), F.S.

¹⁸ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate a line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line-of-duty, the monthly

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁹ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.²⁰

Pension Plan

The pension plan is administered by the Secretary of Management Services (DMS) through the Division of Retirement.²¹ The SBA manages the pension fund's assets.²²

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.²³ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²⁴ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.²⁵ For most current members of the pension plan, normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.²⁶ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁷ Members, other than Special Risk Class members, initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65.²⁸

Deferred Optional Retirement Program (DROP)

The Deferred Optional Retirement Program (DROP)²⁹ allows eligible members³⁰ of the FRS Pension Plan to participate in the program and defer receipt of retirement benefits while continuing employment with his or her FRS employer. The deferred monthly benefits accrue, plus interest, on behalf of the employee, for the period the member participates in DROP. Upon termination of the employment with all participating FRS employers, the member receives the total DROP benefits and begins to receive the previously determined normal retirement amounts.³¹ For retirements after July 1, 2010, for termination of employment to occur, an

benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date.

¹⁹ Section 121.091(4)(f), F.S.

²⁰ Section 121.4501(8), F.S.

²¹ FLA. CONST. art. IV, s. 4.

²² Section 121.025, F.S.

²³ Section 215.44, F.S.

²⁴ Section 121.021(45)(a), F.S.

²⁵ Section 121.021(45)(b), F.S.

²⁶ Section 121.091, F.S. *See also*, DMS, *FRS Pension Plan Member Handbook*, 29 (2025), https://frs.fl.gov/forms/member_handbook.pdf (last visited Jan. 11, 2026).

²⁷ Section 121.021(29)(a)1., F.S.

²⁸ Section 121.021(29)(b), F.S.

²⁹ Sections 121.021(29)(a)2., F.S.

³⁰ Section 121.091(13), F.S.

³¹ Section 121.091(13)(a), F.S.

³¹ *Id.*

employee cannot be employed for six calendar months.³² Elected officers participating in DROP are also subject to the same termination requirements to access their accrued DROP benefit.³³

If a DROP participant, other than an elected officer, continues employment after the end of the member's DROP period, the member shall be deemed not retired and the DROP election is deemed null and void. The member's class membership is reestablished retroactive to the DROP entry date, and the employer must pay the FRS the difference between the DROP contribution rates and the member's class contribution rates, plus 6.5 percent interest for the period of the member's voided DROP participation.³⁴

An elected officer may participate in DROP but is not subject to termination or reemployment limitations until the member no longer holds elective office. If the elected officer's DROP participation began before July 1, 2010, the DROP accumulations continue to earn interest until distributed at termination. If the DROP participation began on or after July 1, 2010, the earning of interest ceases at the end of DROP period. Until termination (no longer holding elected office), the elected officer may not receive the DROP accumulations or the monthly retirement benefit.³⁵

Effect of Violations of the Code of Ethics for Public Officers and Employees

The Code of Ethics for Public Officers and Employees (Code of Ethics)³⁶ establishes ethical standards for public officials and is intended to "ensure that public officials conduct themselves independently and impartially, not using their office for private gain other than compensation provided by law."³⁷ The Code of Ethics pertains to various ethical issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, standards of conduct, investigations and prosecutions of ethics complaints and referrals for alleged ethics violations, and the commission, among others.³⁸ Public officers and employees who are convicted of certain offenses must forfeit their monthly retirement benefits as well as any DROP funds.³⁹

Cost-of-Living Adjustment

For a member of the Florida Retirement System pension plan whose effective retirement date is before July 1, 2011, the member receives a three percent cost-of-living adjustment (COLA).⁴⁰ In the 2011 Legislative Session, the COLA adjustment was reduced for future retirees.⁴¹ For members enrolled on or after July 1, 2011, the COLA is zero. For retirees with years of service prior to 2011, the COLA amount is prorated.⁴²

³² Section 121.021(39)(a)2., F.S.

³³ 121.053,(3)(b), F.S.

³⁴ Section 121.091(13)(c)5.d., F.S.

³⁵ Section 121.053(7), F.S.

³⁶ See Pt. III, Ch. 112, F.S.; *see also* Art. II, s. 8(h)1, FLA. CONST.

³⁷ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2026116> (last visited Jan. 13, 2025).

³⁸ See Pt. III, Ch. 112, F.S.

³⁹ Section 121.091(5)(f)-(k), F.S.

⁴⁰ S. 121.101(3)(b), F.S.

⁴¹ Ch. 2011-68, Laws of Fla.

⁴² Section 121.101(4)(c), F.S., provides that the COLA is prorated by taking the product of 3 percent multiplied by the quotient of the sum of the member's service credit earned for service before July 1, 2011, divided by the sum of the

Section 121.101(5), F.S., provides for the restoration of the COLA:

Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the expiration of the cost-of-living adjustment specified in subsection (4), in accordance with s. 14, Art. X of the State Constitution, the cost-of-living adjustment formula provided for in subsection (4) shall expire effective June 30, 2016, and the benefit of each retiree and annuitant shall be adjusted on each July 1 thereafter, as provided in subsection (3).

To date, the Legislature has not provided funding to restore the COLA to current or future retirees.

In-service distributions and Termination of employment

The FRS is a 401(a) qualified plan under the Internal Revenue Code (IRC). Accordingly, FRS contributions qualify for tax deductions and investment earnings are tax deferred until distributed to retirees. Federal regulations require 401(a) qualified plans to be established by an employer primarily to provide regular and clearly defined benefits to its employees over an extended period, typically for life, following retirement or upon reaching the normal retirement age.⁴³ Retirement involves more than just a decrease in the hours worked by an employee. Therefore, retirement benefits cannot be distributed solely because an employee's hours have been reduced before reaching normal retirement age.⁴⁴

Florida law prohibits a pension benefit from being made prior to participation in DROP or termination of employment.⁴⁵ The law applies the same definition of termination of employment for retirements occurring either before or after normal retirement age. Thus, determining whether a bona fide termination of employment has occurred is crucial for both the tax-exempt qualification of the FRS and state statutory compliance purposes.

The Internal Revenue Service (IRS), the federal agency responsible for administering the IRC, has not provided an objective test for determining whether a bona fide termination of employment has occurred. Instead, the IRS has applied Treasury Regulation 1.409A-1(h)(l)(ii), which states whether a termination of employment has occurred is determined based on whether the facts and circumstances indicate that the employer and employee reasonably anticipated that no further services would be performed after a certain date⁴⁶ or that the level of bona fide

member's total service credit earned. Example: A member with 10 years of service prior to July 1, 2011, retires after 30 years of service. Divide 10 by 30 and multiply by 3 percent. In this example, the member's COLA would be 1.0%.

⁴³ 26 CFR § 1.401(a)-1(b)(1)(i).

⁴⁴ 26 CFR § 1.401(a)-1(b)(3).

⁴⁵ Section 121.091, F.S.

⁴⁶ The regulation provides that the employment relationship is treated as continuing intact while the individual is on a bona fide leave of absence if the leave does not exceed 6 months, or if longer, as long as the individual retains a right to reemployment pursuant to statute or contract. The IRS explains in the preamble to the regulation that "a bona fide leave of absence refers to a leave of absence where there is a reasonable expectation the service provider will return to service with the service recipient." Department of the Treasury, Internal Revenue Service, *Application of Section 409A to Nonqualified Deferred Compensation Plans*, 26 CFR Part I [TD 9321], RIN 1545-BE79 (Dated April 17, 2007).

services the employee would perform after such date would permanently decrease to no more than 20 percent of the average level of bona fide services performed over the immediately preceding 36-month period. However, when applying the regulation in the context of a 401(a) plan, the IRS has opined that “if both the employer and employee know at the time of ‘retirement’ that the employee will, with reasonably [sic] certainty, continue to perform services for the employer, a termination of employment has not occurred upon ‘retirement’ and the employee has not legitimately retired.”⁴⁷

In order to apply the requirement of a bona fide termination, Florida law has incorporated the federal regulation and further has implemented a reemployment limitation period in which an FRS retiree may not be reemployed⁴⁸ by an FRS employer within six months of termination.⁴⁹ In addition, if the retiree is reemployed by an FRS employer during months 7 through 12, the retiree’s retirement benefit for those months is suspended and forfeited.⁵⁰ After the 12-month reemployment limitation period, there are no restrictions on receiving both a salary and retirement benefits when reemployed by an FRS employer.⁵¹

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;⁵²
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program (SUSORP);⁵³ and
- Members in specified positions at a Florida College institution may elect to enroll in the State Community College System Optional Retirement Program.⁵⁴

⁴⁷ IRS PLR 201147038.

⁴⁸ For purposes of the reemployment limitation period, the term “employment” includes the provision of services. Section 121.021(39), F.S.

⁴⁹ Section 121.021(39), F.S.

⁵⁰ Section 121.021(9)(c), F.S.

⁵¹ However, for reemployed members, the FRS employer must pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to the contributions for social security and for the retiree health insurance subsidy. S. 121.091(9)(c)2., F.S.

⁵² The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Effective July 1, 2017, the SMSOAP is closed to new members. Section 121.055(6), F.S. *See also*, Florida DMS, *Senior Management Service Optional Annuity Program*,

https://www.dms.myflorida.com/workforce_operations/retirement/optional_retirement_programs/senior_management_service_optional_annuity_program (last visited Jan. 11, 2026).

⁵³ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment, or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable, and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35(3)(c), F.S.

⁵⁴ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

The SUSORP requires each employee to contribute three percent⁵⁵ of his or her gross compensation to the plan, and the employer must contribute the difference between the current employee contribution (3 percent) and 8.15 percent of the employee's gross monthly compensation (currently, the employer contribution is 5.15 percent).⁵⁶ The state university employer is also required to contribute an amount equal to the UAL contribution to the FRS Trust Fund.⁵⁷

Contribution Rates for the FRS

Employers that participate in the FRS must contribute a specific percentage of the members' monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund (FRS Trust Fund). The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.⁵⁸ The rate is determined annually based on an actuarial study by the DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

In the annual actuarial valuation of the FRS based on July 1, 2025, plan assets and liabilities, Milliman, Inc., the state actuary, determined the following key data relating to the FRS pension plan:⁵⁹

	Valuation Results (in \$ billions)			
	July 1, 2022	July 1, 2023	July 1, 2024	July 1, 2025
Actuarial Liability	\$217.4	\$226.2	\$237.4	\$243.6
Actuarial Value of Assets	\$179.2	\$184.2	\$191.6	\$200.4
Unfunded Actuarial Liability	\$38.3	\$42.0	\$45.8	\$43.3
Funded Percentage (Actuarial Value of Assets/Actuarial Liability)	82.4%	81.4%	80.7%	82.2%

The state actuary determines a rate associated with the normal cost of the pension plan (funding the prospective benefits) and a rate necessary to amortize prior unfunded actuarial liabilities (UAL) over a thirty-year period and new tranches of unfunded actuarial liabilities over a twenty-year period. The following are the current statutory employer contribution rates⁶⁰ for each class and the blended rates recommended by the state actuary based on current law beginning in July 2026:⁶¹

⁵⁵ This contribution is tied to the FRS employee contribution required by s. 121.71(3), F.S., which is three percent as of July 1, 2011.

⁵⁶ Section 121.35(4)(a)4., F.S.

⁵⁷ Section 121.35(4)(b), F.S.

⁵⁸ Section 121.70(1), F.S.

⁵⁹ Matt Larrabee, Milliman Actuarial Valuation, *Florida Retirement System Pension Plan Actuarial Valuation as of July 1, 2025*, 2 (Nov. 24, 2025), https://frs.fl.gov/forms/2025_Valuation.pdf (last visited Jan. 16, 2026).

⁶⁰ Section 121.71(4) and (5), F.S.

⁶¹ Letter to Kathy Gould, Florida DMS Division of Retirement Director, from Milliman Actuarial Services, entitled "Blended Proposed Statutory Rates for the 2026-2027 Plan Year Reflecting a Uniform UAL Rate for All Membership Classes and DROP: Table 1", Nov. 25, 2025 (on file with the Senate Committee on Governmental Oversight and Accountability).

Membership Class	Current Statutory Rates		Recommended Rates to be effective July 1, 2026	
	Normal Cost	UAL Rate	Normal Cost	UAL Rate
Regular Class	7.10%	4.87%	7.11%	4.42%
Special Risk Class	20.10%	13.03%	19.93%	12.60%
Special Risk Administrative Support Class	10.88%	26.54%	10.85%	27.11%
Elected Officer's Class				
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	10.04%	50.56%	10.30%	51.43%
• Justices and Judges	15.62%	28.46%	15.54%	28.40%
• County Officers	11.79%	40.72%	11.45%	41.49%
Senior Management Service Class	8.73%	22.45%	8.68%	21.86%
Deferred Retirement Option Program	9.37%	10.65%	9.43%	10.20%

For all membership classes, except the DROP and certain members with renewed membership, employees contribute three percent of their compensation towards retirement.⁶²

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.⁶³

The aggregate employer contributions anticipated to be paid into the FRS Trust Fund in Fiscal Year 2026-2027 based on the blended rates recommended by the annual state actuary after completing the 2025 Actuarial Valuation would decrease by approximately \$231.4 million when compared to employer contributions that would be due based on the current statutory contribution rates. The impacts of this bill by employer group for Fiscal Year 2026-2027 are noted below.⁶⁴

⁶² Section 121.71(3), F.S.

⁶³ See ss. 121.4503 and 121.72(1), F.S.

⁶⁴ Milliman Actuarial Services, *Florida Retirement System Estimated 2026-2027 Employer Contribution Increases/(Decreases) Due to Rate Changes* (on file with the Senate Committee on Governmental Oversight and Accountability).

Employer Group	Change in Contributions
State Agencies	(\$31.7) m
Universities	(\$28.5) m
Colleges	(\$6.6) m
School Boards	(\$79.9) m
Counties	(\$70.5) m
Other	(\$14.2) m
Total	(\$231.4) m

III. Effect of Proposed Changes:

Section 1 amends s. 121.053, F.S., to allow an elected officer, other than an officer serving as a legislator, to remain in office and receive his or her accumulated Deferred Optional Retirement Program (DROP) proceeds after attaining the age of 59½ years. This is the only instance of an in-service distribution in the Florida Retirement System (FRS) plan.

Section 2 amends s. 121.091, F.S., to require the Division of Retirement and the State Board of Administration to take steps to recoup from an elected officer whose retirement benefits, including DROP proceeds, are subject to forfeiture.

Section 3 amends s. 121.101, F.S., to establish an alternative cost-of-living adjustment for Special Risk Class members. Beginning July 1, 2026, and each July 1 thereafter (there is only one adjustment each calendar year), an eligible special risk class member who has been retired for at least five years will receive a cost-of-living increase of no less than 1.5%. To be eligible for this alternative cost-of-living increase, a retiree initially enrolled in the FRS prior to July 1, 2011, must complete service of at least 72 calendar months (equivalent to the 6-year vesting period) in the Special Risk Class, and a retiree initially enrolled in the FRS on or after July 1, 2011, must complete service of at least 96 calendar months (equivalent to the 8-year vesting period) in the Special Risk Class.

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2026-2027 based on the blended rates recommended by the annual state actuary after completing a special actuarial study regarding the alternative cost-of-living adjustment for eligible Special Risk Class retirees would increase by approximately \$252 million when compared to employer contributions that would be due based on the current statutory contribution rates. The impacts of this bill by employer group for Fiscal Year 2026-2027 are noted below.⁶⁵

⁶⁵ Letter to Kathy Gould, Florida DMS Division of Retirement Director, from Milliman Actuarial Services, entitled “*Special Actuarial Study of Senate Concept Providing 1.5% Prospective Minimum COLA Rate to Eligible Special Risk Class Members and Beneficiaries: Table 2*”, Jan. 7, 2026 (on file with the Senate Committee on Governmental Oversight and Accountability).

Employer Group	Change in Contributions
State Agencies	\$49.8 m
Universities	\$2.0 m
Colleges	\$0.5 m
School Boards	\$10.0 m
Counties	\$173.0 m
Other	\$16.7 m
Total	\$252.0 m

Section 4 amends s. 121.71, F.S., to set the employer-paid normal cost contribution rates to the Florida Retirement System Trust Fund for each membership class and subclass of the FRS. The bill also updates the employer-paid contribution rates for each membership class to address the unfunded actuarial liabilities of the FRS. These rates are based on the combination of the blended rates recommended from the Actuarial Valuation and changes associated with the implementation of the alternative cost-of-living adjustment for Special Risk Class retirees and beneficiaries.

Section 5 provides a legislative finding that the bill fulfills an important state interest.

Section 6 provides that the bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated....”

This bill includes legislative findings that the bill fulfills important state interests, and the bill applies to all persons similarly situated (those employers participating in the Florida Retirement System), including state agencies, school boards, state universities, community colleges, counties, municipalities, and special districts.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impose, authorize to impose, or raise a state tax or fee. Thus, the requirements of Art. III, s. 19 of the State Constitution are not applicable.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The aggregate employer contributions anticipated to be paid into the Florida Retirement System Trust Fund in Fiscal Year 2026-2027 will increase by approximately \$20.5 million when compared to employer contributions that would be due based on the current statutory contribution rates. The impacts of this bill by employer group for Fiscal Year 2025-2026 are noted below.

Employer Group	Change in Contributions
State Agencies	\$18.1 m
Universities	(\$26.5) m
Colleges	(\$6.1) m
School Boards	(\$70.0) m
Counties	\$102.5 m
Other	\$2.5 m
Total	\$20.5 m

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends sections 121.053, 121.091, 121.101, and 121.71 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01731C-26

20267028pb

A bill to be entitled

2 An act relating to retirement; amending s. 121.053,
3 F.S.; authorizing an elected officer, except while
4 serving as a legislator, to remain in elective office
5 and receive accumulated Deferred Retirement Option
6 Program (DROP) proceeds after the officer attains a
7 certain age; providing that, upon termination, the
8 officer receives accumulated DROP proceeds including
9 interest earned in accordance with a specified
10 provision; amending s. 121.091, F.S.; requiring the
11 Division of Retirement or the State Board of
12 Administration, as appropriate, to take steps to
13 recoup from the elected officer any DROP proceeds
14 distributed in accordance with a specified provision,
15 under specified circumstances; amending s. 121.101,
16 F.S.; revising the cost-of-living adjustment for
17 eligible Special Risk Class retirees; defining the
18 term "eligible Special Risk Class retiree"; amending
19 s. 121.71, F.S.; revising required employer retirement
20 contribution rates for each membership class and
21 subclass of the Florida Retirement System; providing a
22 declaration of important state interest; providing an
23 effective date.

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

27 Section 1. Subsection (7) of section 121.053, Florida
28 Statutes, is amended to read:

121-053 Participation in the Elected Officers' Class for

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retired members.—

(7) A member who is elected or appointed to an elective office and who is participating in the Deferred Retirement Option Program is not subject to termination as defined in s. 121.021, or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office, as follows:

(a) At the end of the member's DROP period:

1. The officer's DROP account may not accrue additional monthly benefits, but does continue to earn interest as provided in s. 121.091(13). However, an officer whose DROP participation begins on or after July 1, 2010, may not continue to earn such interest.

2. Retirement contributions, except for unfunded actuarial liability and health insurance subsidy contributions required in ss. 121.71(5) and 121.76, are not required of the employer of the elected officer, and additional retirement credit may not be earned under the Florida Retirement System.

3. The officer, except while serving as a legislator, may remain in elective office and receive his or her accumulated DROP proceeds, including interest earned in accordance with subparagraph 1., after attaining the age of 59 1/2 years.

(b) An elected officer may voluntarily terminate his or her elective office at any time and receive his or her DROP proceeds. However, until termination occurs, an elected officer whose termination limitations are extended by this section is

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59 ineligible for renewed membership in the system and may not
 60 receive pension payments, ~~DROP lump sum payments~~, or any other
 61 state payment other than the statutorily determined salary,
 62 travel, and per diem for the elective office.

63 (c) Upon termination, the officer shall receive his or her
 64 accumulated DROP account, including plus interest earned in
accordance with subparagraph (a)1., and shall accrue and
 66 commence receiving monthly retirement benefits, which must be
 67 paid on a prospective basis only.

68 Section 2. Subsection (5) of section 121.091, Florida
 69 Statutes, is amended to read:

70 121.091 Benefits payable under the system.—Benefits may not
 71 be paid under this section unless the member has terminated
 72 employment as provided in s. 121.021(39)(a) or begun
 73 participation in the Deferred Retirement Option Program as
 74 provided in subsection (13), and a proper application has been
 75 filed in the manner prescribed by the department. The department
 76 may cancel an application for retirement benefits when the
 77 member or beneficiary fails to timely provide the information
 78 and documents required by this chapter and the department's
 79 rules. The department shall adopt rules establishing procedures
 80 for application for retirement benefits and for the cancellation
 81 of such application when the required information or documents
 82 are not received.

83 (5) TERMINATION BENEFITS.—A member whose employment is
 84 terminated prior to retirement retains membership rights to
 85 previously earned member-noncontributory service credit, and to
 86 member-contributory service credit, if the member leaves the
 87 member contributions on deposit in his or her retirement

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88 account. If a terminated member receives a refund of member
 89 contributions, such member may reinstate membership rights to
 90 the previously earned service credit represented by the refund
 91 by completing 1 year of creditable service and repaying the
 92 refunded member contributions, plus interest.

93 (a) A member whose employment is terminated for any reason
 94 other than death or retirement before becoming vested is
 95 entitled to the return of his or her accumulated contributions
 96 as of the date of termination. Effective July 1, 2011, upon
 97 termination of employment from all participating employers for 3
 98 calendar months as defined in s. 121.021(39)(c) for any reason
 99 other than retirement, a member may receive a refund of all
 100 contributions he or she has made to the pension plan, subject to
 101 the restrictions otherwise provided in this chapter. The refund
 102 may be received as a lump-sum payment, a rollover to a qualified
 103 plan, or a combination of these methods. Partial refunds are not
 104 permitted. The refund may not include any interest earnings on
 105 the contributions for a member of the pension plan. Employer
 106 contributions made on behalf of the member are not refundable. A
 107 member may not receive a refund of employee contributions if a
 108 pending or an approved qualified domestic relations order is
 109 filed against his or her retirement account. By obtaining a
 110 refund of contributions, a member waives all rights under the
 111 Florida Retirement System and the health insurance subsidy to
 112 the service credit represented by the refunded contributions,
 113 except the right to purchase his or her prior service credit in
 114 accordance with s. 121.081(2).

115 (b) A member whose employment is terminated for any reason
 116 other than death or retirement after becoming vested may elect

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117 to receive a deferred monthly benefit which shall begin to
 118 accrue on the first day of the month of normal or early
 119 retirement and shall be payable on the last day of that month
 120 and each month thereafter during his or her lifetime. The amount
 121 of monthly benefit shall be computed in the same manner as for a
 122 normal retirement benefit in accordance with subsection (1) or
 123 early retirement benefit in accordance with s. 121.021(30), but
 124 based on average monthly compensation and creditable service as
 125 of the date of termination.

126 (c) In lieu of the deferred monthly benefit provided in
 127 paragraph (b), the terminated member may elect to receive a
 128 lump-sum amount equal to his or her accumulated contributions as
 129 of the date of termination. Effective July 1, 2011, upon
 130 termination of employment from all participating employers for 3
 131 calendar months as defined in s. 121.021(39)(c) for any reason
 132 other than retirement, a member may receive a refund of all
 133 contributions he or she has made to the pension plan, subject to
 134 the restrictions otherwise provided in this chapter. Partial
 135 refunds are not permitted. The refund may not include any
 136 interest earnings on the contributions for a member of the
 137 pension plan. Employer contributions made on behalf of the
 138 member are not refundable. A member may not receive a refund of
 139 employee contributions if a pending or an approved qualified
 140 domestic relations order is filed against his or her retirement
 141 account. By obtaining a refund of contributions, a member waives
 142 all rights under the Florida Retirement System and the health
 143 insurance subsidy to the service credit represented by the
 144 refunded contributions, except the right to purchase his or her
 145 prior service credit in accordance with s. 121.081(2).

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146 (d) If any retired member dies without having received in
 147 benefit payments an amount equal to his or her accumulated
 148 contributions, there shall be payable to his or her designated
 149 beneficiary an amount equal to the excess, if any, of the
 150 member's accumulated contributions over the total monthly
 151 payments made to the member prior to the date of death.
 152 (e) A member shall be deemed a terminated member when
 153 termination of employment has occurred as provided in s.
 154 121.021(39).

155 (f) Any member who has been found guilty by a verdict of a
 156 jury, or by the court trying the case without a jury, of
 157 committing, aiding, or abetting any embezzlement or theft from
 158 his or her employer, bribery in connection with the employment,
 159 or other felony specified in chapter 838, except ss. 838.15 and
 160 838.16, committed prior to retirement, or who has entered a plea
 161 of guilty or of nolo contendere to such crime, or any member
 162 whose employment is terminated by reason of the member's
 163 admitted commitment, aiding, or abetting of an embezzlement or
 164 theft from his or her employer, bribery, or other felony
 165 specified in chapter 838, except ss. 838.15 and 838.16, shall
 166 forfeit all rights and benefits under this chapter, except the
 167 return of his or her accumulated contributions as of the date of
 168 termination.

169 (g) Any elected official who is convicted by the Senate of
 170 an impeachable offense shall forfeit all rights and benefits
 171 under this chapter, except the return of his or her accumulated
 172 contributions as of the date of the conviction.

173 (h) Any member who, prior to retirement, is adjudged by a
 174 court of competent jurisdiction to have violated any state law

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175 against strikes by public employees, or who has been found
 176 guilty by such court of violating any state law prohibiting
 177 strikes by public employees, shall forfeit all rights and
 178 benefits under this chapter, except the return of his or her
 179 accumulated contributions as of the date of the conviction.

180 (i) The division or the state board may not pay benefits to
 181 any member convicted of a felony committed on or after October
 182 1, 2008, defined in s. 800.04 against a victim younger than 16
 183 years of age, or defined in chapter 794 against a victim younger
 184 than 18 years of age, through the use or attempted use of power,
 185 rights, privileges, duties, or position of the member's public
 186 office or employment position. However, the division or the
 187 state board shall return the member's accumulated contributions,
 188 if any, that the member accumulated as of the date of
 189 conviction.

190 (j) Any beneficiary who by a verdict of a jury or by the
 191 court trying the case without a jury is found guilty, or who has
 192 entered a plea of guilty or nolo contendere, of unlawfully and
 193 intentionally killing or procuring the death of the member
 194 forfeits all rights to the deceased member's benefits under this
 195 chapter, and the benefits will be paid as if such beneficiary
 196 had predeceased the decedent.

197 (k) Benefits may not be paid by the division or the state
 198 board pending final resolution of such charges against a member
 199 or beneficiary if the resolution of such charges could require
 200 the forfeiture of benefits as provided in paragraph (f),
 201 paragraph (g), paragraph (h), paragraph (i), paragraph (j), or
 202 chapter 112.

203 (l) The division and the state board, as appropriate, must

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204 take steps to recoup from the elected officer any DROP proceeds
 205 distributed pursuant to s. 121.053(7)(a)3. if:
 206 1. Such DROP proceeds were distributed before the elected
 207 officer's termination; and

208 2. The division or state board would be prohibited pursuant
 209 to paragraph (k) from making a distribution to the elected
 210 officer, absent the distribution to the elected officer pursuant
 211 to s. 121.053(7)(a)3.

212 Section 3. Present subsections (5) through (9) of section
 213 121.101, Florida Statutes, are redesignated as subsections (6)
 214 through (10), respectively, and a new subsection (5) is added to
 215 that section, to read:

216 121.101 Cost-of-living adjustment of benefits.—
 217 (5)(a) Commencing July 1, 2026, and in lieu of any annual
 218 adjustment authorized in paragraph (4)(b) occurring after the
 219 fifth anniversary of retirement of an eligible Special Risk
 220 Class member whose effective retirement date is on or after July
 221 1, 2011, the adjusted monthly benefit of each eligible Special
 222 Risk Class retiree and annuitant shall be the amount of the
 223 monthly benefit being received on June 30 immediately preceding
 224 the adjustment date plus the greater of the amount determined by
 225 multiplying the benefit by the factor calculated pursuant to
 226 paragraph (4)(c) or the amount equal to 1.5 percent of this
 227 benefit.

228 (b) For purposes of this subsection, the term "eligible
 229 Special Risk Class retiree" means a retiree:

230 1. Initially enrolled in the Florida Retirement System
 231 prior to July 1, 2011, who has completed at least 72 calendar
 232 months of creditable service as a Special Risk Class member; or

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233 2. Initially enrolled in the Florida Retirement System on
234 or after July 1, 2011, who has completed at least 96 calendar
235 months of creditable service as a Special Risk Class member

	Percentage of Gross Compensation, Effective
Membership Class	July 1, <u>2026</u> 2025
Regular Class	<u>7.11%</u> <u>7.10%</u>
Special Risk Class	<u>21.58%</u> <u>20.10%</u>
Special Risk	
Administrative	
Support Class	<u>11.45%</u> <u>10.88%</u>
Elected Officers' Class—	
Legislators, Governor,	
Lt. Governor,	10.30% <u>10.04%</u>

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Cabinet Officers,
State Attorneys,
Public Defenders

248	Elected Officers' Class—	
	Justices, Judges	<u>15.54%</u> <u>15.62%</u>
249	Elected Officers' Class—	
	County Elected Officers	11.45% 11.72%

Senior Management Service
Class 8.68% 8.73%

DROP 9.86% 9.31%

(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

Percentage of
Gross
Compensation,
Effective
July 1, 2026 2025
Membership Class

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260 Special Risk Class 14.10% ~~13.03%~~

261 Special Risk
 Administrative
 Support Class 28.28% ~~26.54%~~

262 Elected Officers' Class—
 Legislators, Governor,
 Lt. Governor,
 Cabinet Officers,
 State Attorneys,
 Public Defenders 51.43% ~~50.56%~~

263 Elected Officers' Class—
 Justices, Judges 28.40% ~~28.46%~~

264 Elected Officers' Class—
 County Elected Officers 41.49% ~~40.72%~~

265 Senior Management Service
 Class 21.86% ~~22.45%~~

266 DROP 10.26% ~~10.65%~~

267

268 Section 5. The Legislature finds that a proper and
269 legitimate state purpose is served when employees, officers, and
270 retirees of the state and its political subdivisions, and the
271 dependents, survivors, and beneficiaries of such employees,

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272 officers, and retirees, are extended the basic protections
273 afforded by governmental retirement systems. These persons must
274 be provided benefits that are fair and adequate and that are
275 managed, administered, and funded in an actuarially sound manner
276 as required by s. 14, Article X of the State Constitution and
277 part VII of chapter 112, Florida Statutes. Therefore, the
278 Legislature determines and declares that this act fulfills an
279 important state interest.

280 Section 6. This act shall take effect July 1, 2026.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7024

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Cybersecurity, Information Technology, and Operational Technology Information

DATE: January 16, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Harmsen</u>	<u>McVaney</u>	_____	<u>Pre-meeting</u>

I. Summary:

SPB 7024 expands the current public records and public meeting exemptions codified in s. 119.0725, F.S., which make confidential and exempt certain cybersecurity information held by state and local governmental agencies and any private entity acting on their behalf. The bill also consolidates and incorporates into s. 119.0725, F.S., from other agency-specific cybersecurity provisions the following cybersecurity-related exemptions:

- Information relating to processes or practices designed to protect data, information, or existing or proposed information technology (IT) or operational technology.
- Portions of risk assessments, evaluations, audits, and other reports of an agency's cybersecurity program.
- Login credentials.
- Internet protocol addresses, geolocation data, and other information describing how and when users access public-facing portals.
- Insurance and self-insurance coverage limits, deductibles, and other coverages acquired for the protection of IT, operational technology, or data of an agency.

The exemption in s. 119.0725, F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemption from repeal by delaying the scheduled repeal date, thereby maintaining the exempt status of the information until October 2, 2031. The bill also expands the public records and public meeting exemption and therefore will require a two-thirds vote.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

¹ FLA. CONST. art. I, s. 24(a).

² *Id. See also, Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. *See, Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ See, e.g., s.119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ See, e.g., s. 213.053(2), F.S., exempting from public disclosure information received by the DOR, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Public Records Exemptions for Cybersecurity Information

Both state and local governments are required by various Florida laws³² to create or receive documents and communications that are likely to contain highly sensitive information, that may reveal vulnerabilities in state agency data or cybersecurity.

For example, the Office of the Inspector General conducts state agency cybersecurity audits pursuant to s. 20.055(6)(i), F.S., and each state agency Inspector General is required to incorporate a specific cybersecurity audit plan into their annual audit planning process.³³ Additionally, the Auditor General “regularly conducts information technology audits of

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Id.*

³¹ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meeting exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public record statute was to create a public record exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³² See, e.g., s. 282.318, F.S.

³³ Florida Office of Inspector General, *Cybersecurity Resources*, <https://www.floridaoig.com/cyberSecurity.htm> (last visited Jan. 13, 2026). See, e.g., Florida Department of State Office of Inspector General, *Annual Audit Plan for the 2023-2024 Fiscal Year and Long Range Plan*, (June 22, 2023), <https://files.floridados.gov/media/706921/dos-oig-audit-plan-2023-24-fy.pdf> (last visited Jan. 13, 2026).

governmental entities pursuant to s. 11.45, F.S.”³⁴ Further, agencies are required to communicate incident reports and after-action reports regarding hacking events to specific governmental entities.

Agency Cybersecurity Public Records Exemption, Section 119.0725, F.S.

Section 119.0725(2), F.S., makes confidential and exempt from the public inspection and copying requirements the following cybersecurity-related information:³⁵

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology (IT)³⁶ systems, operational technology³⁷ systems, or an agency’s data;
- Information relating to “critical infrastructure”, defined as existing and proposed IT and operational technology systems and assets (physical or virtual), the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety;
- Cybersecurity³⁸ incident information (whether the incident was actual or merely threatened) reported by state agencies or local governments pursuant to ss. 282.318 and 282.3185, F.S.; and
- Network schematics; hardware and software configurations; encryption information; or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
 - Data³⁹ or information (physical or virtual); or
 - IT resources, which include an agency’s existing or proposed IT systems.

An agency *must* make this information available to a law enforcement agency, the Auditor General, the Cybercrime Office of the FDLE, the Florida Digital Service (FLDS), and—for agencies under the jurisdiction of the Governor—the Chief Inspector General. An agency *may* disclose the confidential and exempt information addressed in s. 119.0725, F.S., “in the furtherance of its official duties and responsibilities or to another agency or governmental entity in the furtherance of its statutory duties and responsibilities.”⁴⁰

³⁴ Florida Office of the Auditor General, Open Government Sunset Review Questionnaire (Cybersecurity Risk Assessments and Audits) (September 2024) (on file with the Senate Governmental Oversight and Accountability Committee).

³⁵ Section 119.0725(2), F.S. This public records exemption was implemented in 2022, after s. 282.318, F.S., was passed, to better address ransomware incidents.

³⁶ “Information technology” is defined in s. 119.0725(1)(f), F.S., as “equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.”

³⁷ “Operational technology” is the hardware and software that causes or detects a change through the direct monitoring or control of physical devices, systems, processes, or events. Section 119.0725(1)(g), F.S.

³⁸ Section 119.0725(1)(c), F.S., defines “cybersecurity” as the protection afforded to an automated information system in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of data, information, and information technology resources.

³⁹ “Data” is the subset of structured information in a format that allows such information to be electronically retrieved and transmitted. Section 282.0041(9), F.S.

⁴⁰ Section 119.0725(5), F.S.

Agencies must still report information about cybersecurity incidents in the aggregate.⁴¹

Portions of this exemption were previously included in s. 282.318, F.S., until 2022, when the general exemption for specific cybersecurity information in s. 119.0725, F.S., was created.⁴²

Section 119.0725(3), F.S., also provides a public meeting exemption for any portion of a meeting that would reveal the information made confidential and exempt pursuant to s. 119.0725(2), F.S.; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record inspection and copying requirements.

The 2022 public necessity statement for s. 119.0725, F.S., provided that:

Release of such information could place an agency at greater risk of breaches, cybersecurity incidents, and ransomware attacks ... Therefore, this information should be made confidential and exempt in order to protect the agency's data, information, and information technology resources. [Furthermore,] failure to close that portion of a meeting at which confidential and exempt information would be revealed, and prevent the disclosure of the recordings and transcripts of those portions of a meeting, would defeat the purpose of the underlying public records exemption and could result in the release of highly sensitive information related to the cybersecurity of an agency system.

The public records and public meeting exemptions in s. 119.0725, F.S., will repeal on October 2, 2026, unless reenacted by the Legislature.

Section 282.318(4), F.S., Cybersecurity Public Records Exemptions

The Cybersecurity Act provides that the following state agency information is confidential and exempt from public records requirements:

- Comprehensive risk assessments, whether completed by the agency itself or a private vendor;⁴³
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or IT resources;⁴⁴ and
- The results of internal cybersecurity audits and evaluations.⁴⁵

This information must be made available to the Auditor General, the Cybercrime Office of the Florida Department of Law Enforcement, the FLDS, and—for agencies under the jurisdiction of the Governor—the Chief Inspector General.

These provisions were enacted in 1989, and the legislature was not required to set forth a public necessity statement regarding the exemption at the time.⁴⁶

⁴¹ Section 119.0725(6), F.S.

⁴² See ch. 2022-220, Laws of Fla.

⁴³ Section 282.318(4)(d), F.S.

⁴⁴ Section 282.318(4)(e), F.S.

⁴⁵ Section 282.318(4)(g), F.S.

⁴⁶ See, ch. 89-14, Laws of Fla.

Section 282.318(5), F.S., Exemptions

In 2016, the Legislature created s. 282.318(5), F.S., which more generally designates as confidential and exempt from public records inspection and copying requirements the portions of risk assessments,⁴⁷ evaluations, external audits,⁴⁸ and other reports of a state agency's cybersecurity program for the data, information, and state agency IT resources⁴⁹ held by a state agency if the disclosure of such portions of records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of:

- Data or information, whether physical or virtual; or
- IT resources, which include:
 - Information relating to the security of the agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
 - Security information, whether physical or virtual, which relates to the agency's existing or proposed IT systems.

An agency *must* disclose this information only to the Auditor General, the Cybercrime Office of the FDLE, the FLDS, and—for agencies under the Governor's jurisdiction—the Chief Inspector General. Portions of records *may* be made available to a local government, another state agency, or a federal agency for cybersecurity purposes or in furtherance of the state agency's official duties.⁵⁰

The 2020 public necessity statement for the public records exemption created in s. 282.318(5), F.S., stated that such information was required to be held as confidential and exempt because the disclosure could impede agency investigations about breaches; result in the disclosure of sensitive personal information or proprietary business information likely to be collected during such investigation, which could facilitate identity theft or otherwise subject victims to further criminal mischief; and reveal weaknesses in a state agency's data security.

Other Cybersecurity-related Exemptions

The Legislature has enacted multiple agency-specific⁵¹ public records and public meeting exemptions to protect cybersecurity-related information from disclosure. While these agency-specific exemptions address a similar public purpose to s. 119.0715, F.S., they are dispersed across multiple chapters of law and vary in scope and terminology. These exemptions currently protect the following information:

⁴⁷ Section 282.0041(29) defines a “risk assessment” for purposes of ch. 282, F.S., as the “process of identifying security risks, determining their magnitude, and identifying areas needing safeguards.”

⁴⁸ For purposes of subsection (5) of s. 282.318, F.S., an “external audit” is defined as one conducted by an entity other than the state agency that is the subject of the audit.

⁴⁹ Section 282.0041(22), F.S., defines “IT resources” as data processing hardware and software services, communications, supplies, personnel, facility resources, maintenance, and training.

⁵⁰ Section 282.382(7), F.S.

⁵¹ “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.

- Secure login credentials and related security information held by the Department of State (DOS) relating to certain password-protected systems.⁵²
- Information relating to the Department of the Lottery's cybersecurity technologies, processes, and practices designed to protect its IT systems and data.⁵³
- User identifications and passwords held by DOS relating to the electronic filing system for campaign finance reports.⁵⁴
- Secure login credentials held by the Commission on Ethics relating to the electronic filing system for financial interest disclosures.⁵⁵
- Sensitive agency-produced data processing software.⁵⁶
- Secure login credentials, Internet protocol addresses, geolocation data, and other information that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal, held by the Department of Highway Safety and Motor Vehicles.⁵⁷
- Information relating to a utility's (that is owned or operated by a unit of local government) security processes and practices designed to protect its IT or industrial control technology systems.⁵⁸
- Cybersecurity policies and procedures, audits, risk assessments, evaluations, and other reports of a state agency's cybersecurity program.⁵⁹
- Risk assessments, evaluations, audits, and other reports of Citizens Property Insurance Corporation's cybersecurity program.⁶⁰
- Information identifying detection, investigation, or response practices, and risk assessments, evaluations, audits, and other reports, relating to the cybersecurity program of a state university or Florida College System Institution.⁶¹

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,⁶² with specified exceptions.⁶³ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.⁶⁴ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

⁵² Section 15.16(3)(c)2., F.S.

⁵³ See s. 24.1051(1)(a)1.a., F.S.

⁵⁴ Section 106.0706(1), F.S.

⁵⁵ Section 112.31446(6)(a), F.S.

⁵⁶ Section 119.071(1)(f), F.S. This exemption currently applies to all agencies.

⁵⁷ Section 119.0712(2)(f), F.S.

⁵⁸ See s. 119.0713(5)(a)1.-2., F.S.

⁵⁹ See s. 282.318(4)-(9), F.S.

⁶⁰ Section 627.352, F.S.

⁶¹ See s. 1004.055, F.S.

⁶² Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

⁶³ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

⁶⁴ Section 119.15(3), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.⁶⁵ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program and administration would be significantly impaired without the exemption;⁶⁶
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁶⁷ or
- It protects trade or business secrets.⁶⁸

The Act also requires specified questions to be considered during the review process.⁶⁹ Of particular importance to this review is the question of whether there are multiple exemptions for the same type of record that it would be appropriate to merge. In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁷⁰ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁷¹

Open Government Sunset Review of the Public Records and Open Meetings Exemptions for Cybersecurity Information

In order to allow these two cybersecurity exemptions to be reviewed concurrently, the Legislature delayed the originally scheduled 2025 repeal of the cybersecurity public records and meeting exemption in s. 282.318(5)-(6), F.S., for one year, setting the new repeal date for October 2, 2026. Conversely, the Legislature moved up by one year (from October 2, 2027, to October 2, 2026), the Open Government Sunset Review for the public records and public meeting exemptions in s. 119.0725(2) and (3), F.S.⁷²

⁶⁵ Section 119.15(6)(b), F.S.

⁶⁶ Section 119.15(6)(b)1., F.S.

⁶⁷ Section 119.15(6)(b)2., F.S.

⁶⁸ Section 119.15(6)(b)3., F.S.

⁶⁹ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁷⁰ FLA. CONST. art. I, s. 24(c).

⁷¹ Section 119.15(7), F.S.

⁷² Ch. 2025-27, Laws of Fla.

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee subsequently surveyed Florida agencies to ascertain whether the public records and open meeting exemptions in ss. 282.318(5) and (6), 119.0725, and 119.0712(2)(f), F.S., remain necessary. Staff reviewed a total of 172 agency responses, a majority of which recommend that the Legislature reenact the public records exemptions without any changes.

Public Records and Meeting Exemption Findings

As part of the questionnaire, respondents were asked whether any agency-specific cybersecurity exemption should be incorporated into the general cybersecurity exemption. Some respondents suggested merging agency-specific exemptions into the general exemption, while others suggested maintaining the status quo.

The responding agencies generally did not report any issue interpreting or applying the exemptions, and noted that the exemptions were used, in particular, to protect relevant portions of audits, security incident reports, and security protocols.

Responding agencies also state that they share the confidential and exempt documents with the Office of Inspector General, Auditor General, FLDS, and FDLE, usually for audit or reporting purposes. At least one agency cites sharing exempt information with the Executive Office of the Governor, IRS, FBI, Social Security Administration, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, and federal Cybersecurity & Infrastructure Security Agency, for either incident reporting, required auditing, or in order to meet a federal funding requirement.

The Legislature is directed to consider whether the records subject to an Open Government Sunset Review are protected by another exemption, and if so, if it would be appropriate to merge the exemptions.⁷³ As outlined above, there are at least three public records exemptions that may cover information made confidential and exempt by s. 119.0725, F.S. Several agencies seem to rely on the exemptions as a group to protect “cybersecurity information” rather than distinguish between them.

III. Effect of Proposed Changes:

Removal of Schedule Repeal of Public Records and Meeting Exemptions

The public records and public meeting exemptions for cybersecurity-related information in ss. 119.0712(2), 119.0725(2)(h), and 282.3185(5)-(6), F.S., will repeal on October 2, 2026, if this bill does not become law.

The bill maintains the confidential and exempt status of specific cybersecurity information held by an agency, and its associated public meeting exemption, by delaying the scheduled repeal date in s. 119.0725, thereby maintaining the exempt status of the information until October 2, 2031.

⁷³ Section 119.15(6)(a), F.S.

Section 1 amends s. 119.0725, F.S., to remove the scheduled repeal date for the public records exemption for cybersecurity information held by an agency, and the public meeting exemption for any portion of a meeting that would reveal such confidential and exempt cybersecurity information (as well as its associated public records exemption for the recording and transcript of such exempt portions of meetings). This information will maintain its confidential and exempt status.

Rather than remove the scheduled repeal date and continue the public records exemption provided for in s. 119.0712(2) and the public records and meeting exemptions provided for in s. 282.3185(5)-(6), F.S., **sections 9 and 12** delete the entirety of those cybersecurity exemptions. These provisions were found appropriate to merge with the cybersecurity exemption in s. 119.0725, F.S., which is saved from repeal by this bill. The substance of sections 9 and 12 are discussed further below.

Expansion of Agency Cybersecurity Public Records Exemption

Section 1 amends s. 119.0725, F.S., to expand the general agency public records exemption for cybersecurity⁷⁴ information to include the following categories of information:

- Network schematics, hardware and software configurations, encryption information, or information identifying detection, investigation, or response practices related to cybersecurity incidents,⁷⁵ including breaches,⁷⁶ if disclosure could facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data, information, or existing or proposed IT or operational technology.
- Information relating to processes or practices designed to protect data, information, or existing or proposed IT or operational technology if disclosure could facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of such data, information, or technology.
- Portions of risk assessments, evaluations, audits, and other reports of an agency's cybersecurity program if disclosure could facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data, information, or existing or proposed IT or operational technology.
- Login credentials.⁷⁷
- Internet protocol addresses, geolocation data, and other information that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal,⁷⁸ and the dates and times that a user accesses a public-facing portal.

⁷⁴ The bill defines "cybersecurity" to mean the protection afforded to IT and operational technology in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of those technologies, data, and information.

⁷⁵ The bill defines "incident" to mean a violation or imminent threat of violation, whether such violation is accidental or deliberate, of an agency's cybersecurity, IT, or operational technology.

⁷⁶ The bill defines "breach" to mean unauthorized access of data or information. Good faith access of data or information by an employee or agent of an agency does not constitute a breach, provided that the data or information is not used for a purpose unrelated to the business or subject to further unauthorized use.

⁷⁷ The bill defines "login credentials" to mean information used to authenticate a user's identity or otherwise access when logging into a computer, computer system, computer network, electronic device, or an online user account accessible over the Internet through a mobile device, a website, or any other electronic means, or for authentication or password or account recovery.

⁷⁸ The bill defines a "public-facing portal" as a web portal or computer application that is publicly accessible over the Internet, via mobile device, website, or other electronic means.

- Sensitive agency-produced data processing software.
- Insurance and self-insurance coverage limits and deductibles, and other risk mitigation coverages, acquired for the protection of IT, OT, or data of an agency.

The bill allows an agency to disclose the above confidential and exempt information in furtherance of its official duties and responsibilities, or to another agency or governmental entity in the furtherance of their official duties and responsibilities. This is an expansion from prior language, which allowed an agency to request such information in furtherance of its statutory duties.

The bill republishes the public meeting exemption associated with the public records exemption codified in s. 119.0725, F.S., thereby expanding the public meeting exemption to include the material added in the underlying public records exemption as described above.

The bill provides that the exemptions apply to information held by an agency before, on, or after the effective date of the act. The public records and public meeting exemptions will automatically repeal on October 2, 2031, unless reviewed and saved from repeal by the Legislature.

Section 15 provides the public necessity statement required by article I, section 24(c) of the State Constitution for the expansion of the public records and meeting exemptions. The statement provides a finding that the release of the specific cybersecurity information could place an agency at greater risk of breach, incident, and ransomware attack. The disclosure of such information could provide bad actors with knowledge about IT and operational technology structures, defenses, and vulnerabilities, making agency operations subject to malicious actions.

The release of login credentials and other security-related information (such as user location) would similarly provide bad actors with methods to access agency IT and operational systems, thus making agency information and systems subject to harm.

Lastly, public knowledge of an agency's cybersecurity insurance could provide cybercriminals with an understanding of the limits of an agency's willingness to pay as a result of a ransomware attack.

All of these vulnerabilities based on the exposure of cybersecurity-related agency information (as either a record, or at a meeting) would result in an expense to taxpayers, and impairment of vital government programs.

Transfer of Agency-Specific Cybersecurity Exemptions

Sections 2-3, 5-6, 9-10 and 12-14 delete agency-specific public records cybersecurity exemptions that are made duplicative by the transfer of their exemptions to the broader agency cybersecurity exemption codified in s. 119.0725, F.S.

Section 2 amends s. 15.16, F.S., to delete a public records exemption for secure login credentials and related information held by the Department of State for the purpose of allowing a person to

electronically file records. The substance of this exemption is transferred to s. 119.0725, F.S., by section 1 of the bill, to apply to all governmental agencies.

Section 3 amends s. 24.1051, F.S., to delete a public records exemption for information relating to the Department of the Lottery's cybersecurity technologies, processes, and practices designed to protect its IT systems and data.

Section 5 amends s. 106.0706, F.S., to delete a duplicative exemption for user identifications and passwords held by DOS relating to the electronic filing system for campaign finance reports.

Section 6 amends s. 112.31446, F.S., to delete a now-duplicative exemption for secure login credentials held by the Commission on Ethics relating to the electronic filing system for financial interest disclosures.

Section 9 amends s. 119.0712, F.S., to delete a now-duplicative exemption for secure login credentials, Internet protocol addresses, geolocation data, and other information that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal, held by the Department of Highway Safety and Motor Vehicles.

Section 10 amends s. 119.0713, F.S., to delete a now-duplicative exemption for information relating to a utility's (that is owned or operated by a unit of local government) security processes and practices designed to protect its IT or industrial control technology systems.

Section 12 amends s. 282.318, F.S., to delete a now-duplicative exemption for cybersecurity policies and procedures, audits, risk assessments, evaluations, and other reports of a state agency's cybersecurity program.

Section 13 repeals s. 627.352, F.S., which makes confidential and exempt from public records inspection and copying requirements any risk assessments, evaluations, audits, and other reports of Citizens Property Insurance Corporation's cybersecurity program. The substance of this exemption is transferred to s. 119.0725, F.S.

Section 14 repeals s. 1004.055, F.S., which makes confidential and exempt information that identifies detection, investigation, or response practices, and risk assessments, evaluations, audits, and other reports, that relate to the cybersecurity program of a state university or Florida College System Institution.

Update of Cross-References

Section 8 deletes a public records exemption for agency-produced data processing software that is sensitive and instead incorporates it into s. 119.0725, F.S. **Sections 4, 7, and 11** update cross-references to s. 119.071(1)(f), F.S., in ss. 101.5607, 119.07, and s. 119.0714, F.S., respectively to reflect the transfer of the exemption to s. 119.0725(2)(h), F.S.

Effective Date

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

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 bill creating or expanding an exemption to the public records disclosure requirements or public meeting requirements. This bill expands the current public records exemption and public meeting exemption; thus, the bill requires an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill expands a current public records and public meeting exemption and therefore requires a new public necessity statement. Section 15 of the bill meets that requirement, noting the release of the cybersecurity-related information protected by the bill could place Florida's agencies at greater risk of breaches, cybersecurity incidents, and ransomware attacks, thereby impairing the administration of vital government programs and result in greater expense to taxpayers.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect information relating to state agency cybersecurity which could make the state more vulnerable to attack or other criminal activity. This bill exempts only those portions of records and meetings that contain relevant information and therefore does not appear to be broader than necessary to accomplish the purposes of the law.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency's review and redaction of exempt records in response to a public records request for information covered by s. 119.0725, F.S.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests. Agencies may see efficiency in training as a result of the condensing of cybersecurity-related exemptions into one section of law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 119.0714, F.S., excludes information made part of a court file from the exemptions provided for in ch. 119, F.S., except those documents specifically closed by a court or specifically listed in law, including sensitive data processing software that is produced by an agency.

Florida courts have consistently held that the judiciary is not an "agency" for purposes of ch. 119, F.S. However, art. I, s. 34 of the State Constitution still provides a constitutional right of access to judicial records. In order to balance the separation of powers between the legislative and judicial branches, confidentiality of court records is governed by court rule and court decisions. Florida Rule of General Practice and Judicial Administration 2.420, entitled "Public Access to and Protection of Judicial Branch Records", provides that "the public shall have access to all records of the judicial branch of government except as provided [in the rule]."

The court system adopts its own exemptions regarding public records, and there will likely be a delay between the effective date of this bill and any update to court rules regarding the confidentiality of sensitive data processing software produced by an agency. However, since the

needed update is limited to a technical cross-reference, rather than a substantive change of the subject of confidentiality—there should be no actual loss of confidentiality between that time.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.0725, 15.16, 24.1051, 101.5607, 106.0706, 112.31446, 119.07, 119.071, 119.0712, 119.0713, 119.0714, and 282.318.

This bill repeals the following sections of the Florida Statutes: 627.352 and 1004.055, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01851-26

20267024pb

A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.0725, F.S.;
4 revising definitions and defining terms; providing an
5 exemption from public records requirements for the
6 cybersecurity, information technology, and operational
7 technology information held by an agency; providing an
8 exemption from public meetings requirements for any
9 portion of a meeting that would reveal such
10 information; providing for retroactive application of
11 the exemptions; providing for future legislative
12 review and repeal of the exemptions; amending ss.
13 15.16, 24.1051, 101.5607, 106.0706, 112.31446, 119.07,
14 119.071, 119.0712, 119.0713, s. 119.0714, and 282.318,
15 F.S.; conforming cross-references and provisions to
16 changes made by the act; repealing s. 627.352, F.S.,
17 relating to security of data and information
18 technology in the Citizens Property Insurance
19 Corporation; repealing s. 1004.055, F.S., relating to
20 security of data and information technology in state
21 postsecondary education institutions; providing a
22 statement of public necessity; providing an effective
23 date.

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

27 Section 1. Section 119.0725, Florida Statutes, is amended
28 to read:
29 119.0725 Agency cybersecurity information; public records

119.0725 Agency cybersecurity information; public records

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exemption; public meetings exemption.—

(1) As used in this section, the term:

(a) "Breach" means unauthorized access of data or in electronic form containing personal information. Good faith access of data or personal information by an employee or agent of an agency does not constitute a breach, provided that the data or information is not used for a purpose unrelated to the business or subject to further unauthorized use.

(b) "Critical infrastructure" means existing and proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

(c) "Cybersecurity" means the protection afforded to information technology or operational technology in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of such technologies, data, and information has the same meaning as in s. 282-0041.

(d) "Data" has the same meaning as in s. 282(0041)

(e) "Incident" means a violation or imminent threat of violation, whether such violation is accidental or deliberate, of an agency's cybersecurity, information technology, or operational technology resources, security, policies, or practices. As used in this paragraph, the term "imminent threat of violation" means a situation in which the agency has a factual basis for believing that a specific incident is about to occur.

(f) "Information technology" has the same meaning as in s.

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282.0041.

(g) "Login credentials" means information used to authenticate a user's identity or otherwise authorize access when logging into a computer, computer system, computer network, electronic device, or online user account accessible over the Internet through a mobile device, a website, or any other electronic means, or for authentication or password or account recovery.

(h) "Operational technology" means the hardware and software that cause or detect a change through the direct monitoring or control of physical devices, systems, processes, or events.

(i) "Public-facing portal" means a web portal or computer application accessible by the public over the Internet, whether through a mobile device, website, or other electronic means.

(2) The following information held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.

(b) Information relating to critical infrastructure.

(b) ~~(e)~~ Cybersecurity incident information reported pursuant to s. 282.318 or s. 282.3185.

(c) ~~(d)~~ Network schematics, hardware and software configurations, or encryption information, or any information that identifies detection, investigation, or response practices related to for suspected or confirmed cybersecurity incidents,

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88 including ~~suspected or confirmed~~ breaches, if the disclosure of such information ~~could~~ ~~would~~ facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data, information, or existing or proposed information technology or operational technology.

93 1. Data or information, whether physical or virtual; or
94 2. Information technology resources, which include an agency's existing or proposed information technology systems.

96 (d) Information relating to processes or practices designed to protect data, information, or existing or proposed information technology or operational technology if the disclosure of such information could facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of such data, information, or technology.

102 (e) Portions of risk assessments, evaluation, audits, and other reports of an agency's cybersecurity program if the disclosure of such information could facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data, information, or existing or proposed information technology or operational technology.

108 (f) Login credentials.

109 (g) Internet protocol addresses, geolocation data, and other information that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal.

114 (h) Agency-produced data processing software that is sensitive.

116 (i) Insurance and self-insurance coverage limits and

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117 ~~deductibles, as well as any other risk mitigation coverages~~
 118 ~~acquired for the protection of information technology,~~
 119 ~~operational technology, or data of an agency.~~

120 (3) Any portion of a meeting that would reveal information
 121 made confidential and exempt under subsection (2) is exempt from
 122 s. 286.011 and s. 24(b), Art. I of the State Constitution. An
 123 exempt portion of a meeting may not be off the record and must
 124 be recorded and transcribed. The recording and transcript are
 125 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 126 of the State Constitution.

127 (4) The public records exemptions contained in this section
 128 apply to information held by an agency before, on, or after the
 129 effective date of the exemptions July 1, 2022.

130 (5)(a) Information made confidential and exempt pursuant to
 131 this section shall be made available to a law enforcement
 132 agency, the Auditor General, the Cybercrime Office of the
 133 Department of Law Enforcement, the Florida Digital Service
 134 within the Department of Management Services, and, for agencies
 135 under the jurisdiction of the Governor, the Chief Inspector
 136 General.

137 (b) Such confidential and exempt information may be
 138 disclosed by an agency in the furtherance of its official duties
 139 and responsibilities or to another agency or governmental entity
 140 in the furtherance of the agency's or governmental entity's
 141 official its statutory duties and responsibilities.

142 (6) Agencies may report information about cybersecurity
 143 incidents in the aggregate.

144 (7) This section is subject to the Open Government Sunset
 145 Review Act in accordance with s. 119.15 and shall stand repealed

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146 on October 2, 2031 2026, unless reviewed and saved from repeal
 147 through reenactment by the Legislature.

148 Section 2. Subsection (3) of section 15.16, Florida
 149 Statutes, is amended to read:

150 15.16 Reproduction of records; admissibility in evidence;
 151 electronic receipt and transmission of records; certification;
 152 acknowledgment.—

153 (3)(a) The Department of State may cause to be received
 154 electronically any records that are required or authorized to be
 155 filed with it pursuant to chapter 48, chapter 55, chapter 117,
 156 chapter 118, chapter 495, chapter 605, chapter 606, chapter 607,
 157 chapter 610, chapter 617, chapter 620, chapter 621, chapter 679,
 158 chapter 713, or chapter 865, through facsimile or other
 159 electronic transfers, for the purpose of filing such records.
 160 The originals of all such electronically transmitted records
 161 must be executed in the manner provided in paragraph (5)(b). The
 162 receipt of such electronic transfer constitutes delivery to the
 163 department as required by law. The department may use electronic
 164 transmissions for purposes of notice in the administration of
 165 chapters 48, 55, 117, 118, 495, 605, 606, 607, 610, 617, 620,
 166 621, 679, and 713 and s. 865.09. The Department of State may
 167 collect e-mail addresses for purposes of notice and
 168 communication in the performance of its duties and may require
 169 filers and registrants to furnish such e-mail addresses when
 170 presenting documents for filing.

171 (b) The department may implement a password-protected
 172 system for any record electronically received pursuant to
 173 paragraph (a) and may require filers to produce supplemental
 174 materials to use such system, including, but not limited to, an

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175 original signature of the filer and verification of credentials.

176 The department may also implement a password-protected system

177 that allows entities organized under the chapters specified in

178 paragraph (a) to identify authorized account holders for the

179 purpose of electronically filing records related to the entity.

180 If the department implements such a system, it must send to each

181 e-mail address on file with the Division of Corporations on

182 January 1, 2024, a code to participate in a password-protected

183 system. The department may require verification of the identity

184 of an authorized account holder before the account holder is

185 authorized to electronically file a record with the department.

186 (c)1. E-mail addresses collected by the Department of State

187 pursuant to this subsection are exempt from s. 119.07(1) and s.

188 24(a), Art. I of the State Constitution. This exemption applies

189 to e-mail addresses held by the Department of State before, on,

190 or after the effective date of the exemption.

191 2. ~~Secure login credentials held by the Department of State~~

192 ~~for the purpose of allowing a person to electronically file~~

193 ~~records under this subsection are exempt from s. 119.07(1) and~~

194 ~~s. 24(a), Art. I of the State Constitution. This exemption~~

195 ~~applies to secure login credentials held by the Department of~~

196 ~~State before, on, or after the effective date of the exemption.~~

197 For purposes of this subparagraph, the term "secure login

198 ~~credentials" means information held by the department for~~

199 ~~purposes of authenticating a user logging into a user account on~~

200 ~~a computer, a computer system, a computer network, or an~~

201 ~~electronic device, an online user account accessible over the~~

202 ~~Internet, whether through a mobile device, a website, or any~~

203 ~~other electronic means; or information used for authentication~~

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204 ~~or password recovery.~~

205 3. This paragraph is subject to the Open Government Sunset

206 Review Act in accordance with s. 119.15 and shall stand repealed

207 on October 2, 2028, unless reviewed and saved from repeal

208 through reenactment by the Legislature.

209 Section 3. Subsection (1) of section 24.1051, Florida

210 Statutes, is amended to read:

211 24.1051 Exemptions from inspection or copying of public

212 records.—

213 (1)(a) The following information held by the department is

214 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

215 of the State Constitution:

216 1. Information that, if released, could harm the security

217 or integrity of the department, including:

218 ~~a. Information relating to the security of the department's~~

219 ~~technologies, processes, and practices designed to protect~~

220 ~~networks, computers, data processing software, data, and data~~

221 ~~systems from attack, damage, or unauthorized access. This sub-~~

222 ~~paragraph is subject to the Open Government Sunset Review Act~~

223 ~~in accordance with s. 119.15 and shall stand repealed on October~~

224 ~~2, 2027, unless reviewed and saved from repeal through~~

225 ~~reenactment by the Legislature.~~

226 b. Security information or information that would reveal

227 security measures of the department, whether physical or

228 virtual.

229 b.e. Information about lottery games, promotions, tickets,

230 and ticket stock, including information concerning the

231 description, design, production, printing, packaging, shipping,

232 delivery, storage, and validation of such games, promotions,

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233 tickets, and stock.

234 c.d. Information concerning terminals, machines, and

235 devices that issue tickets.

236 2. Information that must be maintained as confidential in

237 order for the department to participate in a multistate lottery

238 association or game.

239 3. Personal identifying information obtained by the

240 department when processing background investigations of current

241 or potential retailers or vendors.

242 4. Financial information about an entity which is not

243 publicly available and is provided to the department in

244 connection with its review of the financial responsibility of

245 the entity pursuant to s. 24.111 or s. 24.112, provided that the

246 entity marks such information as confidential. However,

247 financial information related to any contract or agreement, or

248 an addendum thereto, with the department, including the amount

249 of money paid, any payment structure or plan, expenditures,

250 incentives, bonuses, fees, and penalties, shall be public

251 record.

252 (b) This exemption is remedial in nature, and it is the

253 intent of the Legislature that this exemption apply to

254 information held by the department before, on, or after May 14,

255 2019.

256 (c) Information made confidential and exempt under this

257 subsection may be released to other governmental entities as

258 needed in connection with the performance of their duties. The

259 receiving governmental entity shall maintain the confidential

260 and exempt status of such information.

261 Section 4. Paragraph (d) of subsection (1) of section

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262 101.5607, Florida Statutes, is amended to read:

263 101.5607 Department of State to maintain voting system

264 information; prepare software.—

265 (1)

266 (d) Section 119.0725(2) (h) ~~119.071(1)(f)~~ applies to all

267 software on file with the Department of State.

268 Section 5. Section 106.0706, Florida Statutes, is amended

269 to read:

270 106.0706 Electronic filing of campaign finance reports;

271 public records exemption.—

272 (1) ~~All user identifications and passwords held by the~~

273 ~~Department of State pursuant to s. 106.0705 are confidential and~~

274 ~~exempt from s. 119.07(1) and s. 24(a), Art. I of the State~~

275 ~~Constitution.~~

276 (2) ~~(a)~~ Information entered in the electronic filing system

277 for purposes of generating a report pursuant to s. 106.0705 is

278 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

279 Constitution.

280 (2) ~~(b)~~ Information entered in the electronic filing system

281 is no longer exempt once the report is generated and filed with

282 the Division of Elections.

283 Section 6. Subsection (6) of section 112.31446, Florida

284 Statutes, is amended to read:

285 112.31446 Electronic filing system for financial

286 disclosure.—

287 (6) ~~(a) All secure login credentials held by the commission~~

288 ~~for the purpose of allowing access to the electronic filing~~

289 ~~system are exempt from s. 119.07(1) and s. 24(a), Art. I of the~~

290 ~~State Constitution.~~

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291 (b) Information entered in the electronic filing system for
 292 purposes of financial disclosure is exempt from s. 119.07(1) and
 293 s. 24(a), Art. I of the State Constitution. Information entered
 294 in the electronic filing system is no longer exempt once the
 295 disclosure of financial interests or statement of financial
 296 interests is submitted to the commission or, in the case of a
 297 candidate, filed with a qualifying officer, whichever occurs
 298 first.

299 Section 7. Paragraph (g) of subsection (1) of section
 300 119.07, Florida Statutes, is amended to read:

301 119.07 Inspection and copying of records; photographing
 302 public records; fees; exemptions.—

303 (1)

304 (g) In any civil action in which an exemption to this
 305 section is asserted, if the exemption is alleged to exist under
 306 or by virtue of s. 119.071(1)(d) ~~or (f)~~, (2)(d), (e), or (f), or
 307 (4)(c), the public record or part thereof in question shall be
 308 submitted to the court for an inspection in camera. If an
 309 exemption is alleged to exist under or by virtue of s.
 310 119.071(2)(c), an inspection in camera is discretionary with the
 311 court. If the court finds that the asserted exemption is not
 312 applicable, it shall order the public record or part thereof in
 313 question to be immediately produced for inspection or copying as
 314 requested by the person seeking such access.

315 Section 8. Paragraph (f) of subsection (1) of section
 316 119.071, Florida Statutes, is amended to read:

317 119.071 General exemptions from inspection or copying of
 318 public records.—

319 (1) AGENCY ADMINISTRATION.—

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320 (f) ~~Agency-produced data processing software that is~~
 321 ~~sensitive is exempt from s. 119.07(1) and s. 24(a), Art. I of~~
 322 ~~the State Constitution. The designation of agency-produced~~
 323 ~~software as sensitive does not prohibit an agency head from~~
 324 ~~sharing or exchanging such software with another public agency.~~

325 Section 9. Paragraph (f) of subsection (2) of section
 326 119.0712, Florida Statutes, is amended to read:

327 119.0712 Executive branch agency-specific exemptions from
 328 inspection or copying of public records.—

329 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

330 (f) 1. ~~Secure login credentials held by the Department of~~
 331 ~~Highway Safety and Motor Vehicles are exempt from s. 119.07(1)~~
 332 ~~and s. 24(a), Art. I of the State Constitution. This exemption~~
 333 ~~applies to secure login credentials held by the department~~
 334 ~~before, on, or after the effective date of the exemption. For~~
 335 ~~purposes of this subparagraph, the term "secure login~~
 336 ~~credentials" means information held by the department for~~
 337 ~~purposes of authenticating a user logging into a user account on~~
 338 ~~a computer, a computer system, a computer network, or an~~
 339 ~~electronic device; an online user account accessible over the~~
 340 ~~Internet, whether through a mobile device, a website, or any~~
 341 ~~other electronic means; or information used for authentication~~
 342 ~~or password recovery.~~

343 2. ~~Internet protocol addresses, geolocation data, and other~~
 344 ~~information held by the Department of Highway Safety and Motor~~
 345 ~~Vehicles which describes the location, computer, computer~~
 346 ~~system, or computer network from which a user accesses a public~~
 347 ~~facing portal, and the dates and times that a user accesses a~~
 348 ~~public-facing portal, are exempt from s. 119.07(1) and s. 24(a),~~

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349 ~~Art. I of the State Constitution. This exemption applies to such~~
 350 ~~information held by the department before, on, or after the~~
 351 ~~effective date of the exemption. For purposes of this~~
 352 ~~subparagraph, the term "public-facing portal" means a web portal~~
 353 ~~or computer application accessible by the public over the~~
 354 ~~Internet, whether through a mobile device, website, or other~~
 355 ~~electronic means, which is established for administering chapter~~
 356 ~~319, chapter 320, chapter 322, chapter 328, or any other~~
 357 ~~provision of law conferring duties upon the department.~~

358 ~~3. This paragraph is subject to the Open Government Sunset~~
 359 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 360 ~~on October 2, 2026, unless reviewed and saved from repeal~~
 361 ~~through reenactment by the Legislature.~~

362 Section 10. Subsection (5) of section 119.0713, Florida
 363 Statutes, is amended to read:

364 119.0713 Local government agency exemptions from inspection
 365 or copying of public records.—

366 (5) ~~(a)~~ Customer meter-derived data and billing information
 367 in increments less than one billing cycle ~~The following~~
 368 ~~information held by a utility owned or operated by a unit of~~
 369 ~~local government are is exempt from s. 119.07(1) and s. 24(a),~~
 370 ~~Art. I of the State Constitution.~~

371 ~~1. Information related to the security of the technology,~~
 372 ~~processes, or practices of a utility owned or operated by a unit~~
 373 ~~of local government that are designed to protect the utility's~~
 374 ~~networks, computers, programs, and data from attack, damage, or~~
 375 ~~unauthorized access, which information, if disclosed, would~~
 376 ~~facilitate the alteration, disclosure, or destruction of such~~
 377 ~~data or information technology resources.~~

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378 ~~2. Information related to the security of existing or~~
 379 ~~proposed information technology systems or industrial control~~
 380 ~~technology systems of a utility owned or operated by a unit of~~
 381 ~~local government, which, if disclosed, would facilitate~~
 382 ~~unauthorized access to, and alteration or destruction of, such~~
 383 ~~systems in a manner that would adversely impact the safe and~~
 384 ~~reliable operation of the systems and the utility.~~

385 ~~3. Customer meter-derived data and billing information in~~
 386 ~~increments less than one billing cycle.~~

387 ~~(a) (b)~~ This exemption applies to such data and information
 388 held by a utility owned or operated by a unit of local
 389 government before, on, or after the effective date of this
 390 exemption.

391 ~~(b) (e)~~ This subsection is Subparagraphs (a)1. and 2. are
 392 subject to the Open Government Sunset Review Act in accordance
 393 with s. 119.15 and shall stand repealed on October 2, 2027,
 394 unless reviewed and saved from repeal through reenactment by the
 395 Legislature.

396 Section 11. Paragraph (b) of subsection (1) of section
 397 119.0714, Florida Statutes, is amended to read:

398 119.0714 Court files; court records; official records.—

399 (1) COURT FILES.—Nothing in this chapter shall be construed
 400 to exempt from s. 119.07(1) a public record that was made a part
 401 of a court file and that is not specifically closed by order of
 402 court, except:

403 (b) Data processing software as provided in s.
 404 119.0725(2) (h) s. 119.071(1)(f).

405 Section 12. Paragraphs (d), (e), and (g) of subsection (4)
 406 and subsections (5) through (9) of section 282.318, Florida

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407 Statutes, are amended to read:

408 282.318 Cybersecurity.—

409 (4) Each state agency head shall, at a minimum:

410 (d) Conduct, and update every 3 years, a comprehensive risk
411 assessment, which may be completed by a private sector vendor,
412 to determine the security threats to the data, information, and
413 information technology resources, including mobile devices and
414 print environments, of the agency. The risk assessment must
415 comply with the risk assessment methodology developed by the
416 department and is confidential and exempt from s. 119.07(1),
417 except that such information shall be available to the Auditor
418 General, the Florida Digital Service within the department, the
419 Cybercrime Office of the Department of Law Enforcement, and, for
420 state agencies under the jurisdiction of the Governor, the Chief
421 Inspector General. If a private sector vendor is used to
422 complete a comprehensive risk assessment, it must attest to the
423 validity of the risk assessment findings.424 (e) Develop, and periodically update, written internal
425 policies and procedures, which include procedures for reporting
426 cybersecurity incidents and breaches to the Cybercrime Office of
427 the Department of Law Enforcement and the Florida Digital
428 Service within the department. Such policies and procedures must
429 be consistent with the rules, guidelines, and processes
430 established by the department to ensure the security of the
431 data, information, and information technology resources of the
432 agency. The internal policies and procedures that, if disclosed,
433 could facilitate the unauthorized modification, disclosure, or
434 destruction of data or information technology resources are
435 confidential information and exempt from s. 119.07(1), except

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436 ~~that such information shall be available to the Auditor General,~~
437 ~~the Cybercrime Office of the Department of Law Enforcement, the~~
438 ~~Florida Digital Service within the department, and, for state~~
439 ~~agencies under the jurisdiction of the Governor, the Chief~~
440 ~~Inspector General.~~441 (g) Ensure that periodic internal audits and evaluations of
442 the agency's cybersecurity program for the data, information,
443 and information technology resources of the agency are
444 conducted. The results of such audits and evaluations are
445 confidential information and exempt from s. 119.07(1), except
446 that such information shall be available to the Auditor General,
447 the Cybercrime Office of the Department of Law Enforcement, the
448 Florida Digital Service within the department, and, for agencies
449 under the jurisdiction of the Governor, the Chief Inspector
450 General.451 ~~(5) The portions of risk assessments, evaluations, external~~
452 ~~audits, and other reports of a state agency's cybersecurity~~
453 ~~program for the data, information, and information technology~~
454 ~~resources of the state agency which are held by a state agency~~
455 ~~are confidential and exempt from s. 119.07(1) and s. 24(a), Art.~~
456 ~~I of the State Constitution if the disclosure of such portions~~
457 ~~of records would facilitate unauthorized access to or the~~
458 ~~unauthorized modification, disclosure, or destruction of:~~
459 ~~(a) Data or information, whether physical or virtual; or~~
460 ~~(b) Information technology resources, which include:~~
461 ~~1. Information relating to the security of the agency's~~
462 ~~technologies, processes, and practices designed to protect~~
463 ~~networks, computers, data processing software, and data from~~
464 ~~attack, damage, or unauthorized access; or~~

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465 2. Security information, whether physical or virtual, which
 466 relates to the agency's existing or proposed information
 467 technology systems.

469 For purposes of this subsection, "external audit" means an audit
 470 that is conducted by an entity other than the state agency that
 471 is the subject of the audit.

472 (6) Those portions of a public meeting as specified in s.
 473 286.011 which would reveal records which are confidential and
 474 exempt under subsection (5) are exempt from s. 286.011 and s.
 475 24(b), Art. I of the State Constitution. No exempt portion of an
 476 exempt meeting may be off the record. All exempt portions of
 477 such meeting shall be recorded and transcribed. Such recordings
 478 and transcripts are confidential and exempt from disclosure
 479 under s. 119.07(1) and s. 24(a), Art. I of the State
 480 Constitution unless a court of competent jurisdiction, after an
 481 in camera review, determines that the meeting was not restricted
 482 to the discussion of data and information made confidential and
 483 exempt by this section. In the event of such a judicial
 484 determination, only that portion of the recording and transcript
 485 which reveals nonexempt data and information may be disclosed to
 486 a third party.

487 (7) The portions of records made confidential and exempt in
 488 subsections (5) and (6) shall be available to the Auditor
 489 General, the Cybercrime Office of the Department of Law
 490 Enforcement, the Florida Digital Service within the department,
 491 and, for agencies under the jurisdiction of the Governor, the
 492 Chief Inspector General. Such portions of records may be made
 493 available to a local government, another state agency, or a

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494 ~~federal agency for cybersecurity purposes or in furtherance of~~
 495 ~~the state agency's official duties.~~

496 (8) The exemptions contained in subsections (5) and (6)
 497 apply to records held by a state agency before, on, or after the
 498 effective date of this exemption.

499 (9) Subsections (5) and (6) are subject to the Open
 500 Government Sunset Review Act in accordance with s. 119.15 and
 501 shall stand repealed on October 2, 2026, unless reviewed and
 502 saved from repeal through reenactment by the Legislature.

503 Section 13. Section 627.352, Florida Statutes, is repealed.

504 Section 14. Section 1004.055, Florida Statutes, is
 505 repealed.

506 Section 15. (1) The Legislature finds that it is a public
 507 necessity that the following information held by an agency be
 508 made confidential and exempt from s. 119.07(1), Florida
 509 Statutes, and s. 24(a), Article I of the State Constitution:

510 (a) Network schematics, hardware and software
 511 configurations, encryption information, or any information that
 512 identifies detection, investigation, or response practices
 513 relating to cybersecurity incidents, including breaches, if the
 514 disclosure of such information could facilitate unauthorized
 515 access to or unauthorized modification, disclosure, or
 516 destruction of data, information, or existing or proposed
 517 information technology or operational technology.

518 (b) Information relating to processes or practices designed
 519 to protect data, information, or existing or proposed
 520 information technology or operational technology if the
 521 disclosure of such information could facilitate unauthorized
 522 access to or unauthorized modification, disclosure, or

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523 destruction of such data, information, or technology.

524 (c) Portions of risk assessments, evaluations, audits, and

525 other reports of an agency's cybersecurity program if the

526 disclosure of such information could facilitate unauthorized

527 access to or unauthorized modification, disclosure, or

528 destruction of data, information, or existing or proposed

529 information technology or operational technology.

530 (d) Login credentials.

531 (e) Internet protocol addresses, geolocation data, and

532 other information that describes the location, computer,

533 computer system, or computer network from which a user accesses

534 a public-facing portal, and the dates and times that a user

535 accesses a public-facing portal.

536 (f) Agency-produced data processing software that is

537 sensitive.

538 (g) Insurance and self-insurance coverage limits and

539 deductibles, as well as any other risk mitigation coverages,

540 acquired for the protection of information technology,

541 operational technology, or data of an agency.

542 (2) The Legislature finds that release of the information

543 described in subsection (1) could place an agency at greater

544 risk of breaches, cybersecurity incidents, and ransomware

545 attacks. Network schematics, hardware and software

546 configurations, encryption information, or any information that

547 identifies detection, investigation, or response practices for

548 cybersecurity incidents, including breaches, reveals how an

549 agency's information technology and operational technology

550 systems are structured and defended. Disclosure of such

551 information could enable a malicious actor to map system

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552 architecture, identify vulnerabilities, and bypass security

553 controls. Information describing processes or practices designed

554 to protect data, information, or existing or proposed

555 information technology or operational technology could similarly

556 be used to exploit weaknesses and predict defensive actions.

557 Portions of risk assessments, evaluations, audits, and other

558 reports of an agency's cybersecurity program routinely include

559 descriptions of vulnerabilities, testing results, and

560 recommendations. Disclosure of such information would

561 substantially increase the likelihood of a successful

562 cyberattack. Login credentials are a foundational security

563 control, and disclosure of such information could allow

564 malicious actors to authenticate themselves in order to access

565 government systems, impersonate legitimate users, and access

566 personal identifying and other sensitive information. Internet

567 protocol addresses, geolocation data, and other information that

568 describes the location, computer, computer system, or computer

569 network from which a user accesses a public-facing portal, and

570 the dates and times that a user accesses a public-facing portal,

571 could be used to track usage patterns, identify remote access

572 points, or monitor portal vulnerabilities. Sensitive agency-

573 produced data processing software can reveal the inner workings

574 of security controls, authentication mechanisms, or automated

575 processes that malicious actors can use to exploit weaknesses in

576 security measures. If information related to coverage limits and

577 deductibles of cybersecurity insurance were disclosed, it could

578 give cybercriminals an understanding of the monetary sum an

579 agency can afford or may be willing to pay as a result of a

580 ransomware attack at the expense of taxpayers. Accordingly, the

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581 Legislature finds that the disclosure of such sensitive
582 cybersecurity-related information would significantly impair the
583 administration of vital governmental programs.

584 (3) The Legislature also finds that it is a public
585 necessity that any portion of a meeting which would reveal the
586 confidential and exempt information in subsection (1) be made
587 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
588 I of the State Constitution, and that any recordings and
589 transcripts of the closed portion of a meeting be made
590 confidential and exempt from s. 119.07(1), Florida Statutes, and
591 s. 24(a), Article I of the State Constitution. The failure to
592 close that portion of a meeting at which confidential and exempt
593 information would be revealed, and prevent the disclosure of the
594 recordings and transcripts of those portions of a meeting, would
595 defeat the purpose of the underlying public records exemption
596 and could result in the release of highly sensitive information
597 related to the cybersecurity of an agency system.

598 (4) For these reasons, the Legislature finds that these
599 public records and public meetings exemptions are of the utmost
600 importance and are a public necessity.

601 Section 16. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7026

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: OGSR/Trade Secret Held by an Agency

DATE: January 16, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. White	McVaney	_____	Pre-meeting

I. Summary:

SPB 7026 saves from repeal the current public records exemption in s. 119.0715, F.S. for trade secrets held by an agency, which are confidential and exempt from disclosure. The bill additionally deletes duplicative public records exemptions for trade secrets codified outside of Chapter 119, F.S.

The exemption is subject to the Open Government Sunset Review Act, which requires the Legislature to review each public record exemption five years after enactment. Unless this exemption is saved from repeal by the Legislature, it will repeal on October 2, 2026. This bill removes the scheduled repeal to maintain the confidential and exempt status of the information.

The bill is not expected to impact state and local revenue and expenditures.

The bill takes effect upon becoming law.

II. Present Situation:

Access to Public Records - Generally

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*; see *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A bill enacting an exemption may

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2 (2022-2024).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189

not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

General exemptions from the public records requirements are contained in the Public Records Act.¹³ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹⁴

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹⁵ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁶ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁷

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁸ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁹ public records or open meetings exemptions, with specified exceptions.²⁰ The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.²¹ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.²² If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²³

(Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c).

¹³ See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹⁴ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁵ *WFTV, Inc. v. Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁶ *Id.*

¹⁷ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁸ Section 119.15, F.S.

¹⁹ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

²⁰ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

²¹ Section 119.15(3), F.S.

²² See generally s. 119.15, F.S.

²³ Section 119.15(7), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁴ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption, and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²⁵
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁶ or
- It protects trade or business secrets.²⁷

The Act also requires specified questions to be considered during the review process.²⁸ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

Public Records Exemptions for Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt²⁹ from public record disclosure requirements.³⁰ Other laws further exempt proprietary business information, which the law defines to include trade secrets. "Neither the desire for nor the expectation of non-disclosure is determinative," in whether a record is exempt from public disclosure requirements.³¹ A majority of public records exemptions for trade

²⁴ Section 119.15(6)(b), F.S.

²⁵ Section 119.15(6)(b)1., F.S.

²⁶ Section 119.15(6)(b)2., F.S.

²⁷ Section 119.15(6)(b)3., F.S.

²⁸ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁹ 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 statute. *See Attorney General Opinion 85-62* (August 1, 1985).

³⁰ *See, e.g.*, s. 215.4401, F.S. (exempts trade secret data held by the State Board of Administration); s. 288.075(3), F.S. (exempts trade secret information held by an economic development agency); s. 517.2015, F.S.(1)(b), F.S. (exempts trade secret information obtained by the Office of Financial Regulation during an examination or investigation of securities dealers and related entities under ch. 517, F.S.).

³¹ *Sepro Corp. v. Florida Dept. of Envtl. Prot.*, 839 So. 2d 781, 784 (Fla. 1st DCA 2003)

secrets, including s. 119.0715, F.S., rely on the definition of trade secrets found in the Uniform Trade Secrets Act, ss. 688.001-688.009, F.S.

Under the Uniform Trade Secrets Act, a trade secret is information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- 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
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.³²

A trade secret is not inherently exempt from public copying and inspection laws because exemption is not determined by “the desire for nor the expectation of non-disclosure.”³³ Rather, following *Sepro Corp. v. Florida Dept. of Envtl. Prot.*, 839 So. 2d 781 (Fla. 1st DCA 2003), Florida law requires a trade secret owner to identify potential trade secrets *prior* to providing the trade secrets to a public entity in order for a public records exemption to apply.³⁴ Under *Sepro*, failure to indicate the trade secret status of information before providing it to a government agency invalidates any potential claim of exemption from public records disclosure on the basis of the information’s status as a trade secret. Conversely, labeling information as a trade secret does not alone make the information confidential and exempt from public records disclosure requirements—the information must also be an actual trade secret.

Trade Secrets Held by an Agency

In 2021, the Legislature created the public records exemption for trade secrets held by an agency in s. 119.0715, F.S.³⁵ The public necessity statement, as required by the State Constitution, specified that the exemption serves a public necessity to protect trade secrets created or held by an agency and the disclosure of such information “would be detrimental to the effective and efficient operation of the agency,” and could pose “great economic harm” to the agency. Moreover, those individuals and entities who submit trade secrets to agencies for “regulatory or other purposes”—such as in the competitive procurement processes—could suffer detrimental harm if such information were disclosed to the business’ competitors and could discourage entities from cooperating with government agencies.

Section 119.0715, F.S., incorporates the definition of a trade secret codified in s. 688.002, F.S., and makes any such trade secret, when held by an agency, confidential and exempt from s. 119.07(1) and article I, section 24(a) of the State Constitution. An agency may release the trade secret to another agency or governmental entity within the scope of their lawful duties and responsibilities.

An agency, in this instance, means:

any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the

³² Section 688.002(4), F.S.

³³ *Sepro Corp. v. Florida Dept. of Envtl. Prot.*, 839 So. 2d 781, 784 (Fla. 1st DCA 2003).

³⁴ *Id.* at 783.

³⁵ HB 1055 (2021 Reg. Session).

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.

The term agency includes any private persons or entities acting on behalf of an agency.³⁶ A majority of instances where a private body becomes an “agency” for public records purposes happen where (1) an agency delegated statutory authorized function; and (2) “when an agency contracts with a private entity for the provision of certain goods or services to facilitate the public agency’s performance of its duties.”³⁷ In the second instance, there must be a “significant level of involvement by the public agency,” and the contracted services cannot “merely [be] professional services to the agency.”³⁸

Proprietary Business Information

Various laws exempt from public records inspection and copying requirements proprietary business information, which is frequently defined to include trade secrets “as defined in s. 688.002, F.S.”³⁹

The definition of proprietary business information changes between different statutes exempting the information from public records disclosure requirements. Generally, however, proprietary business information includes information that:

- Is owned or controlled by the alleged trade secret holder;
- Is treated as private by the trade secret owner, who intends for it to remain private;
- Would harm the trade secret holder if disclosed;
- Is not publicly disclosed; and
- Concerns some internal business, competitive interest, or financial information of a business or enterprise of the trade secret holder.

This information may include information, the disclosure of which would impair the competitive advantage of the business that is the subject of the information.⁴⁰

Proprietary business information, while defined similarly to trade secrets, encompasses more than just trade secrets. Under the Uniform Trade Secrets Act, trade secrets are limited to formulas, patterns, compilations, programs, devices, methods, techniques, and processes; whereas proprietary business information may take any form. For instance, the definition of trade secrets used in the Florida Criminal Code includes compilation of information, which the

³⁶ *Holifield v. Big Bend Cares, Inc.*, 326 So. 3d 739, 741 (Fla. 1st DCA 2021) (“[A]n ‘agency’ subject to the public records requirements of chapter 119 includes private entities “acting on behalf of any public agency.”). See also *O’Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1040 (Fla. 4th DCA 2018).

³⁷ *Holifield v. Big Bend Cares, Inc.*, 326 So. 3d 739, 741 (Fla. 1st DCA 2021) (internal alterations, quotations, and citation omitted).

³⁸ *Id.* at 741-42. In the second instance, in determining whether the contracted relationship rises to the level of making the private entity an agency for public records purposes, courts rely on the factors set forth in *News & Sun-Sentinel Co. v. Schwab, Twitty & Hanser Architectural Grp., Inc.*, 596 So. 2d 1029 (Fla. 1992).

³⁹ See ss. 73.0155, 287.137, 501.2041, 624.4212, 626.84195, and 627.3518, F.S.

⁴⁰ See ss. 73.0155, 287.137, 501.2041, 624.4212, 626.84195, and 627.3518, F.S.

definition codified in the Uniform Trade Secret Act does not.⁴¹ Under the Insurance Code proprietary business information is defined, for the purposes of exemption from public records disclosure requirements, to include the source, nature, and amount of the consideration used or to be used in carrying out a merger or other acquisition of control in the ordinary course of business, including the identity of the lender, if the person filing a statement regarding consideration so requests.⁴² Proprietary business information may also include internal and external audits, and certain financial information such as revenue data, loss expense data, gross receipts, taxes paid, capital investment, and employee wages.⁴³

Professional Staff's Open Government Sunset Review of the Public Records Exemption

The staff of the Senate Governmental Oversight and Accountability Committee and the House Government Operations Subcommittee surveyed multiple agencies, local governments, and public hospitals, and universities to ascertain whether the public records exemption in s. 119.0715, F.S., remains necessary. Staff reviewed these responses and a majority of those agencies recommended that the Legislature reenact the public records exemption without any changes.

III. Effect of Proposed Changes:

The bill maintains the confidential and exempt status of trade secrets held by an agency by deleting the scheduled October 2, 2026, repeal date in s. 119.0715, F.S., and deletes duplicative exemptions from public records inspection and copying requirements for trade secrets codified elsewhere in the Florida Statutes.

Section 1 amends s. 119.0715, F.S., to remove the scheduled repeal date for the public record exemption relating to trade secrets, as defined in s. 688.002, F.S., held by an agency.

Sections 2-18 amend various other sections of law that exempt from public records inspection and copying requirements trade secret information held by a specific agency. These affected sections are duplicative of the public records exemption codified in s. 119.0715, F.S., which is saved from repeal by this bill.

Sections 2 amends s. 287.137, F.S., to delete the reference to a trade secret within the definition of “proprietary business information.” Under s. 287.137, F.S., trade secrets obtained by the Attorney General in investigations relating to the antitrust violator vendor list are protected from public records disclosures. Any trade secret held pursuant to s. 287.137, F.S., is also protected from disclosure by s. 119.0715(5), F.S., which is saved from repeal by the bill.

Section 3 amends s. 288.075, F.S., to delete the public records exemption for trade secrets held by an economic development agency. Economic development agency means:

- The Department of Commerce;
- Any industrial development authority created in accordance with part III of chapter 159 or by special law;

⁴¹ See s. 812.081, F.S., for the definition of trade secret in the Florida Criminal Code.

⁴² Section 624.4212, F.S.

⁴³ See ss. 624.4212 and 626.84195, F.S.

- Space Florida created in part II of chapter 331;
- The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality or the responsibilities related thereto;
- Any research and development authority created in accordance with part V of chapter 159; or
- Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

Under this exemption, if a private corporation, partnership, or person requests in writing (before an economic incentive agreement is signed) that an economic development agency maintain the confidentiality of information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state, the information is confidential and exempt for 12 months or until the information is otherwise disclosed, whichever comes first.

Economic development agencies are agencies under the Public Records Act and, therefore, any trade secrets held by them are also protected from disclosure under s. 119.0715, F.S. The protection for trade secrets in s. 288.075, F.S., is therefore duplicative.

Section 4 amends s. 334.049, F.S., to delete the public records exemption for trade secrets “revealing a method of process, production, or manufacture” obtained by the Department of Transportation as “as a result of research and development projects.” The exemption in s. 334.049, F.S., was expanded by s. 119.0715, F.S., which protects all trade secrets held by an agency. The Department of Transportation, as a state department created and established by law, is an agency. The records protected in the deleted portion of s. 334.049, F.S., are, therefore, also protected by s. 119.0715, F.S. The portion of s. 334.049, F.S., deleted by the bill is thus unnecessarily duplicative of s. 119.0715, F.S., which is saved by the bill.

Sections 5 amends s. 408.185, F.S., to delete the public records exemption for a trade secret obtained by the Attorney General⁴⁴ from a member of the health care community pursuant to the request for an antitrust no-action letter. This exemption applies for one year after the date of submission of such antitrust no-action letter. However, the public record exemption currently provided for a trade secret under s. 119.0715(5), F.S., protects a trade secret from public copying and inspection requirements for a longer duration—until the owner of the trade secret otherwise publicly releases it. Therefore, the trade secret exemption in s. 408.185, F.S., is duplicative.

Section 6 amends s. 409.91196, F.S., to delete a public records exemption for trade secrets identified and held by the Agency for Health Care Administration for use in Medicaid supplemental rebate agreement negotiations. The deleted language is duplicative of s. 119.0715, F.S., which also provides protection from disclosure for trade secrets. The bill leaves intact the public meeting exemption, in s. 409.91196(2), F.S., which protects portions of a Medicaid

⁴⁴ For the purposes of s. 408.185, F.S., the Attorney General is not exercising any constitutional powers and thus is an agency that is bound by the Public Records Act.

Pharmaceutical and Therapeutics Committee at which such trade secrets identified for use in negotiations are discussed.

Section 7 amends s. 440.108, F.S., to delete the public records exemption for Department of Financial Services' workers' compensation investigative records that may reveal trade secrets. Under s. 440.108, F.S., all investigatory records and any other records necessary to complete an investigation held by the department are confidential and exempt during an active investigation. The confidential and exempt status continues after an investigation for certain enumerated information, including trade secrets. The department is an agency under the Public Records Act. The deleted language only relates to trade secrets, which will continue to be confidential and exempt by the exemption in s. 119.0715, F.S. The deleted language is therefore duplicative. The remaining exemptions in s. 440.108, F.S., are not amended by the bill.

Section 8 amends s. 497.172, F.S., to delete the public records exemption for trade secrets held by the Department of Financial Services or Board of Funeral, Cemetery, and Consumer Services in the course of their development of licensure examinations, investigation of a licensee, and inspection of a facility. Both the Department of Financial Services or Board of Funeral, Cemetery, and Consumer Services, are agencies under the Public Records Act, and, therefore, any trade secrets held by them are also exempt from public records inspection and copying requirements by s. 119.0715, F.S. The deleted language, therefore, is duplicative of the exemption saved from repeal by this bill.

Sections 9-12 amend ss. 501.171, 501.1735, 501.2041, and 501.722, F.S., respectively, to delete the references to a trade secret within the public records exemptions provided for "proprietary business information" that is obtained and held by the Department of Legal Affairs during the following specific investigations:

- Section 501.171, F.S., an investigation of a breach of data security of certain entities.
- Section 501.1735, F.S., an investigation into unfair and deceptive trade practice that violates certain child protections by an online platform.
- Section 501.2041, F.S., an investigation into deceptive and unfair trade practices by social media platforms.
- Section 501.722, F.S., an investigation into deceptive and unfair trade practices regarding data privacy and security.

The Department of Legal Affairs is an agency under the Public Records Act. The bill deletes references to the protection of trade secret information that is also protected from disclosure by s. 119.0715, F.S. and leaves intact the remaining exemptions from public records requirements for proprietary business information more broadly. The deleted language, therefore, is duplicative of the exemption saved from repeal by this bill.

Section 13 amends s. 520.9965, F.S., to delete the public records exemption for trade secret information related to an investigation by the Office of Financial Regulation of the Financial Services Commission or the Department of Financial Services into certain actions prohibited in retail sales. Both the office and the department are agencies under the Public Records Act and, therefore, any trade secrets protected from public records inspection and copying requirements by s. 119.0715, F.S., apply to any trade secret held by either entity. The language deleted

language is duplicative of the exemption in s. 119.0715, F.S., which is saved from repeal by this bill.

Section 14 amends s. 548.062, F.S., to delete the references to a trade secret within the public records exemptions provided for “proprietary business information.” The exemption applies to information provided by a promotor to the Florida Athletic Commission or otherwise obtained by the same through an audit of the promoter’s books and records. The Florida Athletic Commission is a body within the Department of Business and Professional Regulation, and, therefore, an agency within the definition of agency in the Public Records Act. The deleted language only relates to trade secrets, which are also protected by the exemption codified in s. 119.0715, F.S. The deleted language is therefore duplicative. The remaining exemptions are not amended by the bill.

Section 15 amends s. 559.5558, F.S., to delete the public records exemption for trade secret information that is both (1) held by the Office of Financial Regulation of the Financial Services Commission pursuant to an investigation or examination of a violation of the Florida Consumer Collection Practices Act; and (2) would reveal a trade secret. The office is an agency for the purposes of the Public Records Act and, therefore, any trade secrets held by the office are also protected from public records disclosure by s. 119.0715, F.S. The deleted language is therefore duplicative. The remaining exemptions afforded for such investigative records are not amended by the bill.

Section 16 amends s. s. 569.215, F.S., to delete the reference to a trade secret within the public records exemptions provided for “proprietary business information.” The exemption applies to proprietary business information (including trade secrets) received by the Governor, the Attorney General, or outside counsel representing the State of Florida in negotiations in relation to the case of *State of Florida v. American Tobacco Company*; or received by the Chief Financial Officer or the Auditor General for any purpose relating to verification of settlement payments pursuant the case. This exemption applies if, and only if, the trade secrets are controlled by a tobacco company that is a signatory to the settlement agreement. Any trade secrets protected by s. 569.215, F.S., are also protected from public records inspection and copying requirements by s. 119.0715, F.S. The deleted language is therefore duplicative.

Section 17 amends s. 627.0628, F.S., to delete the public records exemption for trade secrets used in designing and constructing a hurricane or flood loss model for Florida Commission on Hurricane Loss Projection Methodology. The Florida Commission on Hurricane Loss Projection Methodology is housed within the State Board of Administration and is, therefore, an agency for the purposes of the Public Records Act. Trade secret information held by the Florida Commission on Hurricane Loss Projection Methodology is accordingly also protected from public records disclosure by s. 119.0715, F.S. The bill does not delete the protection for public meetings discussing the protected trade secrets. The only language deleted by the bill is duplicative of the protections in s. 119.0715, F.S.

Section 18 amends s. 1004.4472, F.S., to delete the public records exemption for trade secrets obtained by the Florida Institute for Human and Machine Cognition, Inc., in the course of research conducted by or through the corporation or a subsidiary, and business transactions resulting from such research. The Florida Institute for Human and Machine Cognition, Inc., is

created by law as a part of the University of West Florida and, therefore, an agency for the purposes of the Public Records Act. While s. 1004.1172, F.S., protects from public records disclosure more information than public records, the bill only deletes the duplicative public records exemption for trade secrets that are also exempted from public records inspection and copying requirements by s. 119.0715, F.S. The deleted language, therefore, is duplicative of the protections in s. 119.0715, F.S., saved from repeal by the bill.

Section 19 provides the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill does not create or expand an exemption and thus does not require a two-thirds vote.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption and thus does not require a public necessity statement.

Breadth of Exemption

Article I, section 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. This exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None identified.

B. Private Sector Impact:

None identified.

C. Government Sector Impact:

The bill is not expected to impact state and local government revenues and expenditures.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

Should the Legislature not save the exemption from repeal, it may wish to look at the following statutes which cite or identify the exemption:

- Section 499.026, F.S., which provides, but for specified information, the exemption in s. 119.0715, F.S., does not apply to a prescription drug manufacturer's trade secrets held by the Department of Business and Professional Regulation if the Department requires such information to issue the relevant permit.
- Section 624.424, F.S., which provides that information connected to the annual audits submitted by each insurer or insurer group to the Office of Insurance Regulation of the Financial Services Commission is not a trade secret nor exempted from public records inspection and copying requirements provided in s. 119.0715, F.S.
- Section 717.1301, F.S., which provides that material compiled by the Department of Financial Services in the course of an investigation under the Florida Disposition of Unclaimed Property Act may be exempt from public records disclosures as provided in s. 119.0715, F.S.

VIII. Statutes Affected:

This bill substantially amends sections 119.0715, 287.137, 288.075, 334.049, 408.185, 409.91196, 440.108, 497.172, 501.171, 501.1735, 501.2041, 501.722, 520.9965, 548.062, 559.5558, 569.215, 627.0628, and 1004.4472 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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59 subject of the information.

60 Section 3. Paragraph (c) of subsection (1) and subsection
61 (3) of section 288.075, Florida Statutes, are amended to read:

62 288.075 Confidentiality of records.—

63 (1) DEFINITIONS.—As used in this section, the term:

64 (e) "Trade secret" has the same meaning as in s. 688.002.

65 (3) TRADE SECRETS.—Trade secrets held by an economic
66 development agency are confidential and exempt from s. 119.07(1)
67 and s. 24(a), Art. I of the State Constitution.68 Section 4. Subsection (4) of section 334.049, Florida
69 Statutes, is amended to read:70 334.049 Patents, copyrights, trademarks; notice to
71 Department of State; confidentiality of trade secrets.—72 (4) Any information obtained by the department as a result
73 of research and development projects and revealing a method of
74 process, production, or manufacture which is a trade secret as
75 defined in s. 688.002, is confidential and exempt from the
76 provisions of s. 119.07(1).77 Section 5. Subsection (1) of section 408.185, Florida
78 Statutes, is amended to read:79 408.185 Information submitted for review of antitrust
80 issues; confidentiality.—The following information held by the
81 Office of the Attorney General, which is submitted by a member
82 of the health care community pursuant to a request for an
83 antitrust no-action letter shall be confidential and exempt from
84 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
85 Constitution for 1 year after the date of submission.86 (1) Documents that reveal trade secrets as defined in s.
87 688.002.

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88 Section 6. Section 409.91196, Florida Statutes, is amended
89 to read:90 409.91196 Supplemental rebate agreements; public records
91 and public meetings exemption.—92 (1) The rebate amount, percent of rebate, manufacturer's
93 pricing, and supplemental rebate information, and other trade
94 secrets as defined in s. 688.002 that the agency has identified
95 for use in negotiations, held by the Agency for Health Care
96 Administration under s. 409.912(5)(a)7. are confidential and
97 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
98 Constitution.99 (2) That portion of a meeting of the Medicaid
100 Pharmaceutical and Therapeutics Committee at which the rebate
101 amount, percent of rebate, manufacturer's pricing, or
102 supplemental rebate information, or other trade secrets as
103 defined in s. 688.002 that the agency has identified for use in
104 negotiations, are discussed is exempt from s. 286.011 and s.
105 24(b), Art. I of the State Constitution. A record shall be made
106 of each exempt portion of a meeting. Such record must include
107 the times of commencement and termination, all discussions and
108 proceedings, the names of all persons present at any time, and
109 the names of all persons speaking. No exempt portion of a
110 meeting may be held off the record.111 Section 7. Subsection (2) of section 440.108, Florida
112 Statutes, is amended to read:113 440.108 Investigatory records relating to workers'
114 compensation employer compliance; confidentiality.—115 (2) After an investigation is completed or ceases to be
116 active, information in records relating to the investigation

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117 remains confidential and exempt from the provisions of s.
 118 119.07(1) and s. 24(a), Art. I of the State Constitution if
 119 disclosure of that information would:
 120 (a) Jeopardize the integrity of another active
 121 investigation;
 122 (b) ~~Reveal a trade secret, as defined in s. 688.002;~~
 123 (c) ~~Reveal business or personal financial information;~~
 124 (d) ~~Reveal personal identifying information regarding~~
 125 ~~the identity of a confidential source;~~
 126 (e) ~~Defame or cause unwarranted damage to the good name~~
 127 ~~or reputation of an individual or jeopardize the safety of an~~
 128 ~~individual; or~~
 129 (f) ~~Reveal investigative techniques or procedures.~~
 130 Section 8. Subsection (4) of section 497.172, Florida
 131 Statutes, is amended to read:
 132 497.172 Public records exemptions; public meetings
 133 exemptions.—
 134 (4) ~~TRADE SECRETS. Trade secrets, as defined in s. 688.002,~~
 135 ~~held by the department or board, are confidential and exempt~~
 136 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~
 137 ~~Constitution.~~
 138 Section 9. Paragraph (d) of subsection (11) of section
 139 501.171, Florida Statutes, is amended to read:
 140 501.171 Security of confidential personal information.—
 141 (11) PUBLIC RECORDS EXEMPTION.—
 142 (d) For purposes of this subsection, the term "proprietary
 143 information" means information that:
 144 1. Is owned or controlled by the covered entity.
 145 2. Is intended to be private and is treated by the covered

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146 entity as private because disclosure would harm the covered
 147 entity or its business operations.
 148 3. Has not been disclosed except as required by law or a
 149 private agreement that provides that the information will not be
 150 released to the public.
 151 4. Is not publicly available or otherwise readily
 152 ascertainable through proper means from another source in the
 153 same configuration as received by the department.
 154 5. Includes:
 155 a. ~~Trade secrets as defined in s. 688.002.~~
 156 b. competitive interests, the disclosure of which would
 157 impair the competitive business of the covered entity who is the
 158 subject of the information.
 159 Section 10. Paragraph (d) of subsection (6) of section
 160 501.1735, Florida Statutes, is amended to read:
 161 501.1735 Protection of children in online spaces; public
 162 records exemption.—
 163 (6) PUBLIC RECORDS EXEMPTION.—
 164 (d) For purposes of this section, the term "proprietary
 165 information" means information that:
 166 1. Is owned or controlled by the online platform.
 167 2. Is intended to be private and is treated by the online
 168 platform as private because disclosure would harm the online
 169 platform or its business operations.
 170 3. Has not been disclosed except as required by law or a
 171 private agreement that provides that the information will not be
 172 released to the public.
 173 4. Is not publicly available or otherwise readily
 174 ascertainable through proper means from another source in the

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175 same configuration as received by the department.

176 5. Includes+

177 a. ~~Trade secrets as defined in s. 688.002.~~

178 b. competitive interests, the disclosure of which would
179 impair the competitive advantage of the online platform who is
180 the subject of the information.

181 Section 11. Paragraph (d) of subsection (10) of section
182 501.2041, Florida Statutes, is amended to read:

183 501.2041 Unlawful acts and practices by social media
184 platforms.-

185 (10)

186 (d) For purposes of this subsection, the term "proprietary
187 business information" means information that:

188 1. Is owned or controlled by the business;

189 2. Is intended to be private and is treated by the business
190 as private because disclosure would harm the business or its
191 business operations;

192 3. Has not been disclosed except as required by law or a
193 private agreement that provides that the information will not be
194 released to the public;

195 4. Is not publicly available or otherwise readily
196 ascertainable through proper means from another source in the
197 same configuration as received by the department; and

198 5. Includes+

199 a. ~~Trade secrets as defined in s. 688.002.~~

200 b. competitive interests, the disclosure of which would
201 impair the competitive advantage of the business that is the
202 subject of the information.

203 Section 12. Paragraph (e) of subsection (4) of section

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204 501.722, Florida Statutes, is amended to read:

205 501.722 Public records exemption.-

206 (4) For purposes of this section, the term "proprietary
207 information" means information that:

208 (e) Includes+

209 1. ~~Trade secrets as defined in s. 688.002.~~

210 2. competitive interests, the disclosure of which would
211 impair the competitive advantage of the controller, processor,
212 or third party who is the subject of the information.

213 Section 13. Paragraph (b) of subsection (1) of section
214 520.9965, Florida Statutes, is amended to read:

215 520.9965 Confidentiality of information relating to
216 investigations and examinations.-

217 (1)

218 (b) Except as necessary for the office to enforce the
219 provisions of this chapter, a consumer complaint and other
220 information relative to an investigation or examination shall
221 remain confidential and exempt from s. 119.07(1) after the
222 investigation or examination is completed or ceases to be active
223 to the extent disclosure would:

224 1. Jeopardize the integrity of another active investigation
225 or examination.

226 2. Reveal the name, address, telephone number, social
227 security number, or any other identifying number or information
228 of any complainant, customer, or account holder.

229 3. Disclose the identity of a confidential source.

230 4. Disclose investigative techniques or procedures.

231 5. ~~Reveal a trade secret as defined in s. 688.002.~~

232 Section 14. Paragraph (e) of subsection (1) of section

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233 548.062, Florida Statutes, is amended to read:

234 548.062 Public records exemption.—

235 (1) As used in this section, the term "proprietary

236 confidential business information" means information that:

237 (e) Concerns any of the following:

238 1. The number of ticket sales for a match;

239 2. The amount of gross receipts after a match;

240 3. ~~A trade secret, as defined in s. 688.002,~~

241 4. Business plans;

242 4.5. Internal auditing controls and reports of internal

243 auditors; or

244 5.6. Reports of external auditors.

245 Section 15. Paragraph (b) of subsection (2) of section

246 559.5558, Florida Statutes, is amended to read:

247 559.5558 Public records exemption; investigations and

248 examinations.—

249 (2)

250 (b) Information made confidential and exempt pursuant to

251 this section is no longer confidential and exempt once the

252 investigation or examination is completed or ceases to be active

253 unless disclosure of the information would:

254 1. Jeopardize the integrity of another active investigation

255 or examination.

256 2. Reveal the personal identifying information of a

257 consumer, unless the consumer is also the complainant. A

258 complainant's personal identifying information is subject to

259 disclosure after the investigation or examination is completed

260 or ceases to be active. However, a complainant's personal

261 financial and health information remains confidential and

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262 exempt.

263 3. Reveal the identity of a confidential source.

264 4. Reveal investigative or examination techniques or

265 procedures.

266 5. ~~Reveal trade secrets, as defined in s. 688.002.~~

267 Section 16. Paragraph (a) of subsection (2) of section

268 569.215, Florida Statutes, is amended to read:

269 569.215 Confidential records relating to tobacco settlement

270 agreement.—

271 (2) As used in this section, the term "proprietary

272 confidential business information" means information, regardless

273 of form or characteristics, which is owned or controlled by a

274 tobacco company that is a signatory to the settlement agreement,

275 as amended, in the case of *State of Florida v. American Tobacco*

276 *Company*, No. 95-1466AH, in the Circuit Court of the Fifteenth

277 Judicial Circuit, in and for Palm Beach County, is intended to

278 be and is treated by a tobacco company as private in that the

279 disclosure of the information would cause harm to the company's

280 business operations, and has not been disclosed unless disclosed

281 pursuant to a statutory provision, an order of a court or

282 administrative body, or private agreement that provides that the

283 information will not be released to the public. The term

284 includes, but is not limited to:

285 (a) ~~Trade secrets as defined in s. 688.002.~~

286 Section 17. Section 627.0628, Florida Statutes, is amended

287 to read:

288 627.0628 Florida Commission on Hurricane Loss Projection

289 ~~Methodology; public records exemption; public meetings~~

290 exemption.—

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291 (1) LEGISLATIVE FINDINGS AND INTENT.—
292 (a) Reliable projections of hurricane losses are necessary
293 in order to assure that rates for residential property insurance
294 meet the statutory requirement that rates be neither excessive
295 nor inadequate. The ability to accurately project hurricane
296 losses has been enhanced greatly in recent years through the use
297 of computer modeling. It is the public policy of this state to
298 encourage the use of the most sophisticated actuarial methods to
299 assure that consumers are charged lawful rates for residential
300 property insurance coverage.

301 (b) The Legislature recognizes the need for expert
302 evaluation of computer models and other recently developed or
303 improved actuarial methodologies for projecting hurricane
304 losses, in order to resolve conflicts among actuarial
305 professionals, and in order to provide both immediate and
306 continuing improvement in the sophistication of actuarial
307 methods used to set rates charged to consumers.

308 (c) It is the intent of the Legislature to create the
309 Florida Commission on Hurricane Loss Projection Methodology as a
310 panel of experts to provide the most actuarially sophisticated
311 guidelines and standards for projection of hurricane losses
312 possible, given the current state of actuarial science. It is
313 the further intent of the Legislature that such standards and
314 guidelines must be used by the State Board of Administration in
315 developing reimbursement premium rates for the Florida Hurricane
316 Catastrophe Fund, and, subject to paragraph (3)(d), must be used
317 by insurers in rate filings under s. 627.062 unless the way in
318 which such standards and guidelines were applied by the insurer
319 was erroneous, as shown by a preponderance of the evidence.

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320 (d) It is the intent of the Legislature that such standards
321 and guidelines be employed as soon as possible, and that they be
322 subject to continuing review thereafter.

323 (e) The Legislature finds that the authority to take final
324 agency action with respect to insurance ratemaking is vested in
325 the Office of Insurance Regulation and the Financial Services
326 Commission, and that the processes, standards, and guidelines of
327 the Florida Commission on Hurricane Loss Projection Methodology
328 do not constitute final agency action or statements of general
329 applicability that implement, interpret, or prescribe law or
330 policy; accordingly, chapter 120 does not apply to the
331 processes, standards, and guidelines of the Florida Commission
332 on Hurricane Loss Projection Methodology.

333 (2) COMMISSION CREATED —

334 (a) There is created the Florida Commission on Hurricane
335 Loss Projection Methodology, which is assigned to the State
336 Board of Administration. For the purposes of this section, the
337 term "commission" means the Florida Commission on Hurricane Loss
338 Projection Methodology. The commission shall be administratively
339 housed within the State Board of Administration, but it shall
340 independently exercise the powers and duties specified in this
341 section.

342 (b) The commission shall be composed consist of the
343 following 12 members:

344 1. The insurance consumer advocate.
345 2. The senior employee of the State Board of Administration
346 responsible for operations of the Florida Hurricane Catastrophe
347 Fund.

3. The Executive Director of the Citizens Property

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349 Insurance Corporation or the executive director's designee. The
 350 executive director's designee must be a full-time employee of
 351 the corporation and have actuarial science experience.

352 4. The Director of the Division of Emergency Management or
 353 the director's designee. The director's designee must be a full-
 354 time employee of the division.

355 5. The actuary member of the Florida Hurricane Catastrophe
 356 Fund Advisory Council.

357 6. An employee of the office who is an actuary responsible
 358 for property insurance rate filings and who is appointed by the
 359 director of the office.

360 7. Five members appointed by the Chief Financial Officer,
 361 as follows:

362 a. An actuary who is employed full time by a property and
 363 casualty insurer that was responsible for at least 1 percent of
 364 the aggregate statewide direct written premium for homeowner
 365 insurance in the calendar year preceding the member's
 366 appointment to the commission.

367 b. An expert in insurance finance who is a full-time member
 368 of the faculty of the State University System and who has a
 369 background in actuarial science.

370 c. An expert in statistics who is a full-time member of the
 371 faculty of the State University System and who has a background
 372 in insurance.

373 d. An expert in computer system design who is a full-time
 374 member of the faculty of the State University System.

375 e. An expert in meteorology who is a full-time member of
 376 the faculty of the State University System and who specializes
 377 in hurricanes.

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378 8. A licensed professional structural engineer who is a
 379 full-time faculty member in the State University System and who
 380 has expertise in wind mitigation techniques. This appointment
 381 shall be made by the Governor.

382 (c) Members designated under subparagraphs (b)1.-5. shall
 383 serve on the commission as long as they maintain the respective
 384 offices designated in subparagraphs (b)1.-5. The member
 385 appointed by the director of the office under subparagraph (b)6.
 386 shall serve on the commission until the end of the term of
 387 office of the director who appointed him or her, unless removed
 388 earlier by the director for cause. Members appointed by the
 389 Chief Financial Officer under subparagraph (b)7. shall serve on
 390 the commission until the end of the term of office of the Chief
 391 Financial Officer who appointed them, unless earlier removed by
 392 the Chief Financial Officer for cause. Vacancies on the
 393 commission shall be filled in the same manner as the original
 394 appointment.

395 (d) The State Board of Administration shall annually
 396 appoint one of the members of the commission to serve as chair.

397 (e) Members of the commission shall serve without
 398 compensation, but shall be reimbursed for per diem and travel
 399 expenses pursuant to s. 112.061.

400 (f) The State Board of Administration shall, as a cost of
 401 administration of the Florida Hurricane Catastrophe Fund,
 402 provide for travel, expenses, and staff support for the
 403 commission.

404 (g) There shall be no liability on the part of, and no
 405 cause of action of any nature shall arise against, any member of
 406 the commission, any member of the State Board of Administration,

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407 or any employee of the State Board of Administration for any
 408 action taken in the performance of their duties under this
 409 section. In addition, the commission may, in writing, waive any
 410 potential cause of action for negligence of a consultant,
 411 contractor, or contract employee engaged to assist the
 412 commission.

413 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
 414 (a) The commission shall consider any actuarial methods,
 415 principles, standards, models, or output ranges that have the
 416 potential for improving the accuracy of or reliability of the
 417 hurricane loss projections used in residential property
 418 insurance rate filings and flood loss projections used in rate
 419 filings for personal lines residential flood insurance coverage.
 420 The commission shall, from time to time, adopt findings as to
 421 the accuracy or reliability of particular methods, principles,
 422 standards, models, or output ranges.
 423 (b) The commission shall consider any actuarial methods,
 424 principles, standards, or models that have the potential for
 425 improving the accuracy of or reliability of projecting probable
 426 maximum loss levels. The commission shall adopt findings as to
 427 the accuracy or reliability of particular methods, principles,
 428 standards, or models related to probable maximum loss
 429 calculations.
 430 (c) In establishing reimbursement premiums for the Florida
 431 Hurricane Catastrophe Fund, the State Board of Administration
 432 must, to the extent feasible, employ actuarial methods,
 433 principles, standards, models, or output ranges found by the
 434 commission to be accurate or reliable.
 435 (d) With respect to a rate filing under s. 627.062, an

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436 insurer shall employ and may not modify or adjust actuarial
 437 methods, principles, standards, models, or output ranges found
 438 by the commission to be accurate or reliable in determining
 439 hurricane loss factors and probable maximum loss levels for use
 440 in a rate filing under s. 627.062. An insurer may employ a model
 441 in a rate filing until 120 days after the expiration of the
 442 commission's acceptance of that model and may not modify or
 443 adjust models found by the commission to be accurate or reliable
 444 in determining probable maximum loss levels. This paragraph does
 445 not prohibit an insurer from using a straight average of model
 446 results or output ranges for the purposes of a rate filing for
 447 personal lines residential flood insurance coverage under s.
 448 627.062.

449 (e) The commission shall adopt actuarial methods,
 450 principles, standards, models, or output ranges for personal
 451 lines residential flood loss no later than July 1, 2017.

452 (f) The commission shall revise previously adopted
 453 actuarial methods, principles, standards, models, or output
 454 ranges every odd-numbered year for hurricane loss projections.
 455 The commission shall revise previously adopted actuarial
 456 methods, principles, standards, models, or output ranges no less
 457 than every 4 years for flood loss projections.

458 (g) A trade secret, as defined in s. 688.002, which is
 459 used in designing and constructing a hurricane or flood loss
 460 model and which is provided pursuant to this section, by a
 461 private company, to the commission, office, or consumer advocate
 462 appointed pursuant to s. 627.0613 is confidential and exempt
 463 from s. 119.07(1) and s. 24(a), Art. I of the State
 464 Constitution.

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465 2.a. That portion of a meeting of the commission or of a
 466 rate proceeding on an insurer's rate filing at which a trade
 467 secret as defined in s. 688.002, which is used in designing and
constructing a hurricane or flood loss model and which is
provided pursuant to this section by a private company to the
commission, office, or consumer advocate appointed pursuant to
s. 627.0613, made confidential and exempt by this paragraph is
 472 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
 473 State Constitution. The closed meeting must be recorded, and no
 474 portion of the closed meeting may be off the record.

475 2.b. The recording of a closed portion of a meeting is
 476 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 477 Constitution.

478 Section 18. Paragraph (a) of subsection (2) and subsection
 479 (4) of section 1004.4472, Florida Statutes, are amended to read:
 480 1004.4472 Florida Institute for Human and Machine
 481 Cognition, Inc.; public records exemption; public meetings
 482 exemption.—

483 (2) The following information held by the corporation or
 484 its subsidiary is confidential and exempt from s. 119.07(1) and
 485 s. 24(a), Art. I of the State Constitution:

486 (a) Material relating to methods of manufacture or
 487 production, potential trade secrets, patentable material, actual
trade secrets as defined in s. 688.002 or proprietary
 488 information received, generated, ascertained, or discovered
 489 during the course of research conducted by or through the
 490 corporation or a subsidiary, and business transactions resulting
 491 from such research.

493 (4) That portion of a meeting of the corporation or a

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494 subsidiary at which information is presented or discussed which
 495 is confidential and exempt pursuant to subsection (2) or s.
 496 119.0715 is exempt from s. 286.011 and s. 24(b), Art. I of the
 497 State Constitution.

498 Section 19. This act shall take effect upon becoming a law.

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