

**STORAGE NAME:** h1945.ei

**DATE:** April 10, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
EDUCATION INNOVATION  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1945 (PCB EI 97-02)

**RELATING TO:** Open Records

**SPONSOR(S):** Committee on Education Innovation

**STATUTE(S) AFFECTED:** s. 446.609, F.S.

**COMPANION BILL(S):** SB 1812

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) EDUCATION INNOVATION YEAS 5 NAYS 1
  - (2)
  - (3)
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**I. SUMMARY:**

This bill pertains to the public records law reviewed under the auspices of the Open Government Sunset Review Act.

This bill provides an exemption from the public records requirements for information which identifies a person who responds to a marketing project conducted by the Florida Endowment Foundation for Florida's Graduates.

This bill also provides a public necessity statement outlining the reasons for the exemption.

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

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 119, F.S., requires that public records held by an agency are subject to inspection and copying by the public. However, public records may be exempted from public disclosure.

Article 1, section 24, Florida Constitution, provides that exemptions, other than those expressly provided for in the Constitution, may only be accomplished by general law. General law exempting records "shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law."

Exemptions are analyzed using the following definition of public necessity: A public necessity justifying an exemption exists when, after considering the public good served by access to the record or meeting and the public or private harm that could be caused by allowing or denying access to the record or meeting, it is determined that the presumption in favor of open records and meetings is overcome because the public's interest are best served by denying access in whole or part to the record or meeting; and, access is denied to as little of the record or meeting as is practicable.

**Jobs for America's Graduates**

Jobs for America's Graduates (JAG) began in 1980 as an experimental school to work program for at-risk youth in Delaware under the administration of Governor Pete DuPont. In the 17 years since Jobs for Delaware's Graduates has evolved into Jobs for America's Graduates and operates in all or part of 25 states, and Washington, D.C.. The program is unique in that it depends to a large degree on significant private sector funding and involvement.

**Florida Endowment Foundation for Florida's Graduates**

The Florida Endowment Foundation for Florida's Graduates, a not for profit organization serves as a direct service organization of the Department of Education to operate Jobs for Florida's Graduates. It is funded by a combination of state funds, and private contributions primarily from the private sector beneficiaries of the program. It is anticipated that the amount of state funding will decrease as the JFG endowment increases.

The foundation is operated by a board of directors with measurable performance standards and employs mostly non-state employees.

B. EFFECT OF PROPOSED CHANGES:

This bill creates an exemption from public disclosure of information revealing the identity of a person who donates money to the Florida Endowment Fund for Florida's Graduates. Persons affected by the exemption justify its need by stating that it protects donors from being bombarded with solicitations.

Failure to ensure the confidentiality of the identities of donors could adversely affect the ability of the Florida Endowment Foundation for Florida's Graduates to raise future funds.

**C. APPLICATION OF PRINCIPLES:**

**1. Less Government:**

**a. Does the bill create, increase or reduce, either directly or indirectly:**

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Donors will be entitled to an exemption from open records.

**b. If an agency or program is eliminated or reduced:**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

**2. Lower Taxes:**

Not applicable.

- a. Does the bill increase anyone's taxes?
- b. Does the bill require or authorize an increase in any fees?
- c. Does the bill reduce total taxes, both rates and revenues?
- d. Does the bill reduce total fees, both rates and revenues?
- e. Does the bill authorize any fee or tax increase by any local government?

3. Personal Responsibility:

Not applicable.

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, private donors to Jobs for Florida's Graduates will not be required to disclose information as would a state agency.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

Not applicable.

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

**D. SECTION-BY-SECTION RESEARCH:**

**Section 1.** Creates 446.609 Subsection (14), F.S. providing an exemption from the public records requirements for information revealing the identities of donors.

**Section 2.** Provides a statement of public necessity for the exemption described in section 1 above.

**Section 3.** Provides that this act will take effect upon becoming law.

**III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

None.

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

4. Total Revenues and Expenditures:

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

None.

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

1. Direct Private Sector Costs:

2. Direct Private Sector Benefits:

3. Effects on Competition, Private Enterprise and Employment Markets:

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

PCB EI 97-01a was reported favorably by the Education Innovation Committee on April 1, 1997 and subsequently renamed to PCB EI 97-02. On April 7, 1997 PCB EI 97-02 was filed as HB 1945.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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