

By Senator Atwater

41-612A-04

1 A bill to be entitled
2 An act relating to public records and meetings;
3 creating s. 288.9551, F.S.; creating an
4 exemption from public records and public
5 meetings requirements for certain information
6 held by the Scripps Florida Funding Corporation
7 or the Office of Tourism, Trade, and Economic
8 Development; creating an exemption from public
9 records requirements for specified research
10 materials and actual and potential trade
11 secrets; creating an exemption from public
12 records for other proprietary business
13 information; creating an exemption for
14 information made confidential under the laws of
15 other states or nations or pursuant to federal
16 law; creating an exemption from public meetings
17 requirements for meetings of the governing
18 board of directors of the Scripps Florida
19 Funding Corporation at which exempt records are
20 presented or discussed; providing for
21 interagency exchange of confidential
22 information; providing a penalty; providing for
23 future review and repeal; providing a statement
24 of public necessity; providing a contingent
25 effective date.
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27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Section 288.9551, Florida Statutes, is
30 created to read:
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1 288.9551 Exemptions from public records and meetings
2 requirements; Scripps Florida Funding Corporation.--

3 (1) As used in this section, the term "grantee" has
4 the same meaning ascribed in s. 288.955.

5 (2) The following information held by the Scripps
6 Florida Funding Corporation or the Office of Tourism, Trade,
7 and Economic Development under s. 288.955 is confidential and
8 exempt from s. 24, Art. I of the State Constitution and s.
9 119.07(1):

10 (a) Methods of manufacture or production, potential
11 trade secrets, patentable material, or proprietary information
12 received, generated, ascertained, or discovered by the grantee
13 or The Scripps Research Institute.

14 (b) Proprietary business information of the grantee or
15 The Scripps Research Institute, including, but not limited to,
16 actual trade secrets as defined in s. 688.002; federal
17 employer identification numbers; unemployment account numbers;
18 Florida sales tax registration numbers; agreements and
19 proposals to receive funding, including grant applications;
20 materials that relate to the recruitment of personnel; the
21 identity of donors; and building design plans.

22 (c) Any information received by the grantee or The
23 Scripps Research Institute from a person or another state or
24 nation or the Federal Government which is otherwise
25 confidential or exempt pursuant to that state's or nation's
26 laws or pursuant to federal law.

27 (d) Any information received by the grantee or The
28 Scripps Research Institute in the conduct of their operations
29 which is otherwise confidential and exempt by law.

30 (2) That portion of a meeting of the board of
31 directors of the Scripps Florida Funding Corporation at which

1 information is presented or discussed which is confidential
2 and exempt under subsection (1) is closed to the public and
3 exempt from s. 24(b), Art. I of the State Constitution and s.
4 286.011.

5 (3) Any records generated during those portions of the
6 board meetings which are closed to the public under subsection
7 (2), such as minutes, tape recordings, videotapes,
8 transcriptions, or notes, are confidential and exempt from s.
9 24, Art. I of the State Constitution and s. 119.07(1).

10 (4) Information that is made confidential under this
11 section may be released to public employees exclusively for
12 the performance of their public duties, including, but not
13 limited to, the exchange of information between the Scripps
14 Florida Funding Corporation and the Office of Tourism, Trade,
15 and Economic Development to administer s. 288.955. Public
16 employees receiving this confidential information must
17 maintain the confidentiality of the information. A person
18 receiving confidential information who violates this
19 subsection commits a misdemeanor of the first degree,
20 punishable as provided by s. 775.082 or s. 775.083.

21 (5) This section is subject to the Open Government
22 Sunset Review Act of 1995 in accordance with s. 119.15 and
23 shall stand repealed on October 2, 2009, unless reviewed and
24 saved from repeal through reenactment by the Legislature.

25 Section 2. (1) The Legislature finds that it is a
26 public necessity that certain records held by the Scripps
27 Florida Funding Corporation and the Office of Tourism, Trade,
28 and Economic Development which contain proprietary business
29 and scientific information be made confidential and exempt
30 from the public records law. Methods of manufacture or
31 production, actual or potential trade secrets, patented or

1 patentable materials, business transactions, or other
2 proprietary information received, generated, ascertained, or
3 discovered by the grantee or The Scripps Research Institute,
4 or through business development by the grantee or The Scripps
5 Research Institute, must be confidential and exempt because
6 the disclosure of this information would create an unfair
7 competitive advantage for persons receiving the information,
8 which would adversely impact the grantee, The Scripps Research
9 Institute, or its subsidiaries, affiliates, or partnerships,
10 including the state. If this information regarding research in
11 progress was released under a public records request, those
12 persons receiving the information would be permitted to take
13 the benefit of the research and business development without
14 compensation or reimbursement to the grantee, The Scripps
15 Research Institute, or its subsidiaries or partnerships,
16 including the state. The disclosure of trade secrets, tax
17 identification numbers, the amount of taxes paid, and the
18 amount of employee wages paid, personnel recruitment, grant
19 applications, and the detailed documentation held by the
20 Scripps Florida Funding Corporation or the Office of Tourism,
21 Trade, and Economic Development which is used to substantiate
22 the performance of the grantee or The Scripps Research
23 Institute, could injure the grantee or The Scripps Research
24 Institute in the marketplace by providing its competitors with
25 detailed insights into the financial status and the strategic
26 plans of the grantee or The Scripps Research Institute,
27 thereby diminishing the advantage that the grantee or The
28 Scripps Research Institute maintains over those who do not
29 possess the information. Some of the documentation supplied to
30 support the grantee's or The Scripps Research Institute's
31 claim for incentive funding could reveal private information,

1 such as employee names and social security numbers, concerning
2 the employees of the grantee or The Scripps Research
3 Institute.

4 (2) The Legislature further finds that information
5 held by the Scripps Florida Funding Corporation or the Office
6 of Tourism, Trade, and Economic Development from a person in
7 another state or nation, or the Federal Government, which
8 information is otherwise confidential or exempt from
9 disclosure under the laws of that state or nation, or under
10 federal law, should remain confidential or exempt because the
11 highly confidential nature of research necessitates that the
12 Scripps Florida Funding Corporation and the Office of Tourism,
13 Trade, and Economic Development be authorized to maintain the
14 status of confidential or exempt information they receive from
15 the grantee or The Scripps Research Institute. Without these
16 exemptions, the disclosure of confidential and exempt
17 information would place the grantee and The Scripps Research
18 Institute in an unequal footing in the biomedical industry as
19 compared with research competitors that are not required to
20 disclose confidential and exempt information.

21 (3) The Legislature finds that the disclosure of this
22 information would adversely impact the Scripps Florida Funding
23 Corporation and the Office of Tourism, Trade, and Economic
24 Development from fulfilling their missions of research and
25 economic development. It is further a public necessity that
26 the Scripps Florida Funding Corporation and the Office of
27 Tourism, Trade, and Economic Development have the
28 confidentiality protections for other information received in
29 the performance of their duties and obligations which is
30 confidential and exempt by law to put the grantee and The
31 Scripps Research Institute on an equal footing with other

1 public research institutes and ensure that the grantee and The
2 Scripps Research Institute have similar opportunities for
3 success as private research competitors.

4 (4) The Legislature further finds that it is a public
5 necessity that portions of the meetings at which proprietary
6 confidential business information, including, but not limited
7 to, materials that relate to methods of manufacture or
8 production, actual or potential trade secrets, patentable
9 materials, business transactions, or proprietary information
10 received, generated, ascertained, or discovered during the
11 course of research, is being presented or discussed be exempt
12 under public open meeting laws to allow the Scripps Florida
13 Funding Corporation to maintain the confidentiality of this
14 information and prevent an unfair competitive advantage for
15 the persons receiving this information.

16 Section 3. This act shall take effect on the same date
17 that Senate Bill ___ or similar legislation takes effect, if
18 such legislation is enacted in the same legislative session or
19 an extension thereof and becomes law.

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22 SENATE SUMMARY

23 Provides that certain information held by the Scripps
24 Florida Funding Corporation and the Office of Tourism,
25 Trade, and Economic Development is confidential and
26 exempt from disclosure under the public records law.
27 Provides an exemption from disclosure for information
28 made confidential under the laws of other states or
29 nations or pursuant to federal law. Provides that
30 portions of meetings at which confidential information is
31 discussed are exempt from the public meetings law.
Provides for future legislative review and repeal of the
act under the Open Government Sunset Review Act of 1995.