

Bill No. SB 2922

Amendment No. ____ Barcode 182278

CHAMBER ACTION

Senate

House

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Senator Crist moved the following amendment:

Senate Amendment (with title amendment)

On page 6, between lines 10 and 11,

insert:

Section 4. Subsection (9) of section 1004.445, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

1004.445 Florida Alzheimer's Center and Research Institute.--

(9)(a) The following information is confidential and exempt from the provisions of s. 119.07(1) and s. 24, Art. I of the State Constitution:

~~1.~~(a) Personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's Center and Research Institute which is held by the institute, the University of South Florida, or the State Board of Education or by persons who provide services to clients of programs created or funded through contracts with the Florida Alzheimer's Center and Research Institute;

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1 ~~2.(b)~~ Any medical or health records relating to
2 patients which may be created or received by the institute;

3 3. Proprietary confidential business information. As
4 used in this subparagraph, the term "proprietary confidential
5 business information" means information, regardless of its
6 form or characteristics, which is owned or controlled by the
7 institute; is intended to be and is treated by the institute
8 as private and the disclosure of which would harm the business
9 operations of the institute; has not been intentionally
10 disclosed by the institute unless pursuant to law, an order of
11 a court or administrative body, a legislative proceeding
12 pursuant to s. 5, Art. III of the State Constitution, or a
13 private agreement that provides that the information may be
14 released to the public; and which is information concerning:

15 a. Trade secrets as defined in s. 688.002, including
16 information relating

17 ~~(c) Materials that relate to methods of manufacture or~~
18 ~~production, potential trade secrets, potentially patentable~~
19 ~~material, actual trade secrets as defined in s. 688.002, or~~
20 ~~proprietary information received, generated, ascertained, or~~
21 ~~discovered during the course of research conducted by or~~
22 ~~through the institute, and reimbursement methodologies or~~
23 ~~rates. and business transactions resulting from such research;~~

24 ~~b.(d)~~ The identity of a donor or prospective donor to
25 the ~~Florida Alzheimer's Center and Research~~ institute who
26 wishes to remain anonymous, and all information identifying
27 such donor or prospective donor.†

28 ~~c.(e)~~ Any information received by the institute in the
29 performance of its duties and responsibilities which is
30 otherwise confidential and exempt by law.† and

31 ~~d.(f)~~ Any information received by the institute from a

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1 person from another state or nation or the Federal Government
2 which is otherwise confidential or exempt pursuant to that
3 state's or nation's laws or pursuant to federal law.

4 e. Systems or techniques used by third-party payors or
5 their agents to access and control health care service
6 payments.

7 f. Financial incentives or disincentives related to
8 the use of specific providers, services, or service sites.

9 g. Methods of access to and coordination of services
10 by a case manager.

11 h. Information relating to private contractual data,
12 upon a determination by the board of directors that the
13 disclosure of that information would impair the competitive
14 interest of the provider of the information. Such
15 determination by the board must be reflected in the minutes of
16 the meeting at which the determination was made.

17 i. That portion of the salary or benefits paid to an
18 employee of the institute who performs scientific research,
19 which salary or benefits are not paid from public funds.
20 Personnel records of such employee shall provide notice that
21 such employee receives a portion of salary or benefits payment
22 from private sources.

23 j. Minutes of those portions of a meeting of the
24 governing board of the institute which are closed pursuant to
25 paragraph (11)(a).

26 (b) Any governmental entity that demonstrates a need
27 to access such confidential and exempt information in order to
28 perform its duties and responsibilities shall have access to
29 such information and shall otherwise keep such information
30 confidential and exempt.

31 (10) Subsection (9) ~~This section~~ is subject to the

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1 Open Government Sunset Review Act of 1995 in accordance with
2 s. 119.15 and shall stand repealed on October 2, 2009 ~~2006~~,
3 unless reviewed and saved from repeal through reenactment by
4 the Legislature.

5 (11)(a) That portion of a meeting of the governing
6 board of the Florida Alzheimer's Center and Research Institute
7 at which information is discussed which is made confidential
8 and exempt pursuant to subsection (9) is exempt from s.
9 286.011 and s. 24(b), Art. I of the State Constitution.

10 (b) This subsection is subject to the Open Government
11 Sunset Review Act of 1995 in accordance with s. 119.15 and
12 shall stand repealed on October 2, 2009, unless reviewed and
13 saved from repeal through reenactment by the Legislature.

14 Section 5. The Legislature finds that it is a public
15 necessity that personal identifying information relating to
16 clients of programs created or funded through the Florida
17 Alzheimer's Center and Research Institute, any medical or
18 health records relating to patients, and proprietary
19 confidential business information owned or controlled by the
20 Florida Alzheimer's Center and Research Institute be made
21 confidential and exempt. If information identifying clients of
22 programs created or funded through the institute were made
23 available, the personal privacy of those clients would be
24 invaded. Those clients could be subjected to public
25 embarrassment if their participation in these programs were
26 made known. Without protection for the identity of clients,
27 the ability of the institute to attract clients and perform
28 the duties for which it was created would be adversely
29 affected. Further, the Legislature finds that medical or
30 health records relating to patients of the institute must be
31 confidential and exempt. Medical and health records contain

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1 sensitive, highly personal information and, without protection
2 for such information, patients might refuse the services of
3 the institute. Further, access to proprietary confidential
4 business information owned or controlled by the institute
5 could be used to create an unfair competitive advantage for
6 persons receiving such information, which would adversely
7 impact the institute, as well as entities whose proprietary
8 confidential business information is controlled by the
9 institute. If trade secrets owned or controlled by the
10 institute could be inspected and copied, other persons could
11 take the benefit of the research performed by the institute,
12 or of its business partners or agents, without compensation or
13 reimbursement to the institute or its business partners or
14 agents. Further, if such information were not protected, other
15 entities would likely decline to enter into partnership or
16 other business arrangements with the institute knowing that
17 their proprietary confidential business information could be
18 publicly available. The Legislature further finds that systems
19 or techniques used by third-party payors or their agents to
20 access and control health care service payments must also be
21 confidential and exempt because these methods or techniques
22 are developed by these third-party payors and if such
23 information were made available when in the possession of the
24 institute, competitors of the third-party payors could obtain
25 an economic advantage over the third-party payors. If that
26 were to occur, third-party payors would refuse to contract
27 with the institute, which would adversely affect the
28 institute. Further, the Legislature finds that financial
29 incentives or disincentives related to the use of specific
30 providers, services, or service sites and methods of access
31 and coordination of services must also be confidential and

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1 exempt. If this information were obtained by competitors, it
2 could be used to the disadvantage of entities that contract
3 with the institute and these entities might refrain from
4 entering into such contracts on that basis. Further, the
5 Legislature finds that if the identity of a donor or
6 prospective donor who wishes to remain anonymous were not
7 protected, income from donations would be adversely affected,
8 which would cause a negative impact on the institute. The
9 Legislature also finds that information received by the
10 institute from a person in another state or nation or the
11 Federal Government which is otherwise exempt or confidential
12 pursuant to the laws of that state or nation or pursuant to
13 federal law should remain exempt or confidential because the
14 highly confidential nature of research necessitates that the
15 institute be authorized to maintain the status of exempt or
16 confidential information it receives from sponsors of research
17 and other persons. The Legislature finds that the disclosure
18 of such information would adversely impact the institute's
19 ability to fulfill the mission of research for which the
20 institute was created. It is a public necessity that the
21 institute have the same confidential protections for
22 information received in the performance of its duties and
23 obligations which is confidential and exempt by law in order
24 to put it on an equal footing with other public research
25 institutes and to ensure that it has similar opportunities for
26 success as other private research entities. Further, the
27 Legislature finds that it is a public necessity that portions
28 of such meetings of the governing board of the institute at
29 which personal identifying information of clients, medical or
30 health records relating to patients, and proprietary
31 confidential business information that is discussed be made

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1 confidential and exempt. Further, the Legislature finds that
2 exempting that portion of the salary or benefit of a
3 scientific researcher that is not paid from public funds is a
4 public necessity to enable the institute to attract the most
5 highly competent and qualified researchers as employees, while
6 still maintaining oversight over the expenditure of public
7 funds. If those portions of meetings of the governing board of
8 the institute at which confidential and exempt information is
9 discussed were not exempt, the exemption for that information
10 would be defeated. Further, for the same reason, the
11 Legislature finds that minutes of those portions of meetings
12 at which information made confidential and exempt by this act
13 are discussed must also be made confidential and exempt.
14 Further, the Legislature finds that protecting private
15 contractual data of entities that are in the possession of the
16 institute is a public necessity because those entities might
17 refuse to provide necessary information to the institute if it
18 were to be available to the public. Thus, for the foregoing
19 reasons, the Legislature finds that it is a public necessity
20 that personal identifying information relating to clients of
21 programs created or funded through the Florida Alzheimer's
22 Center and Research Institute, any medical or health records
23 relating to patients, and proprietary confidential business
24 information owned or controlled by the institute must be made
25 confidential and exempt from public disclosure.

26 Section 6. If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 invalidity does not affect other provisions or applications of
29 the act which can be given effect without the invalid
30 provision or application, and to this end the provisions of
31 this act are declared severable.

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 1, line 17, after the semicolon,

insert:

amending s. 1004.445, F.S.; creating a public records exemption for proprietary confidential business information owned or controlled by the Florida Alzheimer's Center and Research Institute; specifying types of information that are deemed proprietary confidential business information; creating a public meetings exemption for specified meetings or portions of meetings of the governing board of the Florida Alzheimer's Center and Research Institute; providing for future review and repeal; providing a statement of public necessity; providing severability;