

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7135 PCB GEAC 07-07 OGSR/Building Plans and Blueprints of Structures and Facilities Owned or Operated by a State Agency

SPONSOR(S): Government Efficiency & Accountability Council and Grant

TIED BILLS: **IDEN./SIM. BILLS:** SB 886

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Government Efficiency & Accountability Council	11 Y, 0 N	Williamson	Cooper
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public records and each public meetings exemption five years after enactment. If the Legislature does not reenact the exemption, it is automatically repealed on October 2nd of the fifth year after enactment.

Current law provides a public records exemption for building plans, blueprints, schematic drawings, and diagrams depicting the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency. The exempt information may be released: to another governmental entity; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. In creating the exemption for building plans and blueprints, the Legislature found that it was a public necessity in order to ensure the safety of government infrastructures and to ensure public safety.

The bill reenacts the public records exemption and reorganizes the exemption. The exemption will repeal on October 2, 2007, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public records or public meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- Protecting trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required because of the requirements of Art. 1, s. 24(c), Florida Constitution. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created (e.g., allowing another agency access to the confidential or exempt records), then a public necessity statement and a two-thirds vote for passage are not required.

Building Plans and Blueprints

Current law provides a public records exemption for building plans, blueprints, schematic drawings, and diagrams² depicting the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.³ The exempt information may be released:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities.
- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.

¹ Section 119.15, F.S.

² Section 119.071(3)(b), F.S. The exemption includes draft, preliminary, and final formats.

³ Section 119.011, 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.

- Upon a showing of good cause before a court of competent jurisdiction.

In creating the exemption for building plans and blueprints, the Legislature found that it was a public necessity in order to ensure the safety of government infrastructures and to ensure public safety. The finding further stated that such building plans, blueprints, schematic drawings, and diagrams are a vital component of public safety and if made publicly available, the ability of persons who desire to harm individuals located in or using those structures would be increased.⁴

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2007, unless reenacted by the Legislature.

EFFECT OF BILL

International terrorists continue to demonstrate the ability to plan and carry out sophisticated acts of terrorism. Their capability appears to be no less today than at the time of the Legislature's original findings in 2002. As such, the bill removes the repeal date, thereby reenacting the public records exemption. It also reorganizes the exemption.

C. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., to remove the repeal date.

Section 2 provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁴ Chapter 2002-67, L.O.F.

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.