

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 Commerce and Tourism

BILL: CS/SB 1416

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Public Records

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1416 repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information. This bill, in conjunction with linked bill SB 1414 (2019 Regular Session), replaces the deleted policy with a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill includes provisions that:

- Specify that an agency contract or agreement, or an addendum thereto, is a public record, except that confidential or exempt information contained in those records may be redacted prior to the records' release;
- Explicitly make specific information in an agency contract public record, including the parties, amount of money paid, commodities or services purchased, and unit prices or deliverables, as outlined in the contract.
- Repeal the Department of the Lottery's authorization to determine by rule whether information relating to the operation of the lottery is confidential and exempt from public record laws; and
- Repeal s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.

However, the bill expressly exempts contracts, agreements, or addenda thereto entered into by research institutes created or established in law, divisions of sponsored research at state

universities, and technology transfer centers at Florida College System Institutions from disclosure as required by this bill.

The bill takes effect upon becoming law if SB 1414 or similar legislation is adopted in the same legislative session, or an extension thereof, and also becomes law.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy government records generated by the legislative, executive, and judicial branches of government.¹ The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution by a two-thirds vote of the members present and voting in each house of the Legislature.² The law must specifically state the public necessity justifying the exemption³ and must be no broader than necessary to accomplish its stated purpose.

Chapter 119, F.S., the “Public Records Act,”⁴ provides further public policy regarding access to government records. Section 119.07(1)(a), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. The Open Government Sunset Review Act⁵ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose that is limited in scope to meet one of the following purposes:⁶

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety; or
- Protect trade or business secrets, the disclosure of which would injure the affected party in the marketplace.

The Open Government Sunset Review Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.⁷ The Legislature must consider specific questions during its review for possible reenactment.⁸

¹ FLA. CONST., art. I, s. 24(a). The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

² FLA. CONST., art. I, s. 24(c). This portion of a public record exemption is referred to as the “public necessity statement.”

³ *Id.*

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.15, F.S.

⁶ Section 119.15(6), F.S.

⁷ Section 119.15(3), F.S.

⁸ Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained

The Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’⁹ Records designated as ‘confidential and exempt’ may be released only under circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at a records custodian’s discretion under certain circumstances.¹⁰

Trade Secrets

Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt¹¹ from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets.

The following are examples of public record exemptions for trade secrets:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is a trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(8), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation;
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt;
- Section 334.049(4), F.S., makes certain trade secret information obtained by the Department of State as a result of research and development projects confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;
- Sections 403.7046(2), (3)(b), and 403.73, F.S., make trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 440.108(2), F.S., makes trade secrets contained in records held by the Department of Financial Services relating to workers’ compensation employer compliance investigations confidential and exempt;

by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁹ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁰ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹¹ 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).

- Section 499.012(3)(c), F.S., makes trade secret information provided to the Department of Business and Professional Regulation in a prescription drug permit application confidential and exempt;
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 526.311(2), F.S., makes trade secrets contained in investigative records related to the sale of liquid fuel and brake fuel obtained by DACS confidential and exempt;
- Section 560.129(2), F.S., makes information obtained by the Office of Financial Regulation in the course of an investigation of a money service business that is a trade secret confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 601.10(8)(b), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt;
- Section 626.884(2), F.S., makes information contained in insurance administrators' records obtained by the Office of Insurance Regulation (OIR) confidential and exempt; and
- Section 815.04(3) and (6), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

While some of these exemptions do not define the term "trade secret," a majority of them rely on one of two different statutory definitions. Some of the exemptions define the term in accordance with Florida's criminal statutes, which uses the following definition:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.¹²

Other exemptions define the term in accordance with the Uniform Trade Secrets Act,¹³ which defines the term as follows:

“Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (a) 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
- (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.¹⁴

In addition, some exemptions provide a specific process that an agency¹⁵ must use to protect exempted trade secrets. For instance, some exemptions require the party that submits information claimed to be a trade secret to designate the information as protected, while other exemptions require the agency to determine whether information claimed to be a trade secret constitutes a trade secret.¹⁶

SEPRO Corporation v. Department of Environmental Protection

Section 815.045, F.S., contains the statement of public necessity¹⁷ for a public record exemption for “data, programs or supporting documentation which is a trade secret as defined in s. 812.081, F.S., which resides or exists internal or external to a computer, computer system, or computer network.” In *SEPRO Corporation v. Department of Environmental Protection*,¹⁸ the public

¹² Section 812.081(1)(c), F.S.

¹³ Sections 688.001 through 688.009, F.S.

¹⁴ Section 688.002(4), F.S.

¹⁵ The term “agency” is defined to mean 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. Section 119.011(2), F.S.

¹⁶ See s. 381.83, F.S.

¹⁷ Section 815.045, F.S., which begins “[t]he Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt” is the required public necessity statement for s. 812.081, F.S., and it was inadvertently codified in the Florida Statutes. Public necessity statements are codified in the Laws of Florida.

¹⁸ SEPRO contracted with the Department of Environmental Protection to assist in the eradication of hydrilla from certain lakes. A public record request was made by another party for information relating to SEPRO and its processes for treating hydrilla. Upon discovering the request, SEPRO’s counsel informed the department that certain documents should be protected as trade secrets. The department advised that it intended to release the documents as the documents were not timely marked as confidential prior to receipt of the public record request. The department did not release the documents as suit was filed to prevent disclosure. The circuit court found that certain documents could be disclosed and others could not. SEPRO appealed and the district court affirmed, finding that the documents that the corporation failed to mark as confidential prior to the public record request could be disclosed and held that the trade secret exemption applied to electronic mail sent to the department. Noting that it is a felony to release trade secret information under s. 815.04(3), F.S., the court stated:

necessity statement was interpreted by a district court to be a public record exemption. This interpretation resulted in an extension of protection to certain information that had been filed with an agency.

Department of the Lottery

Article X, s. 15 of the Florida Constitution authorizes the state lottery. Although the Constitution initially prohibited lotteries, it was amended in 1986 to allow lotteries to be operated only by the state.

Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to implement the constitutional provision. Section 24.102, F.S., outlines the purpose and intent of the chapter, which is to enable the people of the state to benefit from significant additional moneys for education and to play the best lottery games available. This section also specifies it is the intent of the Legislature that:

- The net proceeds of lottery games be used to support improvements in public education without serving as a substitute for existing public education resources;
- The lottery be operated by a state department that functions as much as possible in the manner of an entrepreneurial business enterprise;
- The lottery games be operated by a self-supporting, revenue-producing department; and
- The department be accountable to the Legislature and the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.¹⁹

Chapter 24, F.S., establishes the Department of the Lottery (department) to operate the state lottery with the purpose of maximizing revenues in a manner consonant with the dignity of the state and the welfare of its citizens.²⁰ Section 24.105, F.S., authorizes the department to adopt rules governing the establishment and operation of the state lottery. The department is specifically authorized to determine by rule which information relating to the operation of the lottery is confidential and exempt from public record requirements. Such information includes trade secrets; security measures, systems, or procedures; security reports; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the department to contract for goods or services on favorable terms; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; and information obtained by the Division of Security pursuant to its investigations which is otherwise confidential. To be deemed confidential, the information must be necessary to the security and integrity of the lottery. This statutory authorization was created prior to the constitutional amendment, which provides that *only* the Legislature may create a public record exemption.

Due to the legal uncertainty as to whether a public employee would be protected from a felony conviction if otherwise complying with chapter 119, and with s. 24(a), Art. I of the State Constitution, *it is imperative that a public records exemption be created.* Currently, s. 812.081, F.S., provides a definition for “trade secret” and makes it a felony of the third degree for any person to intentionally deprive or withhold from the owner the control of a trade secret, or to intentionally appropriate, use, steal, embezzle or copy the trade secret . . . The original placement (of the exemption) . . . evinces a contemporaneous view that the exemption . . . applies to more than computer data, programs or supporting documentation . . . (*emphasis added*).

¹⁹ Section 24.102(2), F.S.

²⁰ Section 24.104, F.S.

SB 1414

Senate Bill 1414 (2019 Regular Session), to which this bill is linked, creates a uniform public record exemption for trade secrets that applies to most agencies that are subject to public record requirements. The bill defines the term “trade secret” and creates a process for an individual or entity to follow when submitting a trade secret to an agency.

III. Effect of Proposed Changes:

The bill repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information. The bill will not take effect until and unless SB 1414 (2019 Regular Session) is enacted.

For purposes of this bill, “agency” is defined to include 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.

The bill specifies that any contract or agreement, or an addendum thereto, to which an agency is a party is a public record, except that confidential or exempt information contained therein may be redacted prior to release of the contract or agreement, or an addendum thereto, if a statutory exemption is identified. In addition, the following information related to any contract or agreement, or an addendum thereto, with an agency is not confidential or exempt:

- Parties to the contract or agreement, or to an addendum thereto;
- Money paid under a contract, or any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties;
- The type of commodities or services purchased pursuant to the contract; and
- Unit prices and deliverables specified in the contract.

However, research institutes created or established in law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System Institutions are not subject to disclosure of contract information as described in this section.

The bill makes changes to several provisions that govern trade secrets or related processes, including by not limited to, the following:

- Repealing the provision authorizing the Department of the Lottery to determine by rule information relating to the operation of the lottery that is confidential and exempt from public record requirements;
- Repealing s. 815.045, F.S., which is the public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes; and
- Specifying that trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute and the Florida Institute for Human and Machine Cognition, Inc., and divisions of sponsored research at state universities are confidential and exempt if they meet the definition of “trade secret” in SB 1414.

Section 1 creates s. 119.07135, F.S., providing that certain information related to agency contracts is not confidential or exempt from public records requirements. However, this section exempts contracts or agreements, or any addenda thereto that are entered into by research institutes that are created or established in law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System institutions from this section.

Section 2 amends s. 24.105, F.S., deleting provisions relating to exemptions from public records requirements for certain information held by the Department of the Lottery.

Section 3 amends s. 73.0155, F.S., deleting provisions relating to public records exemptions for trade secrets held by governmental condemning authorities.

Section 4 amends s. 119.071, F.S., deleting a provision declaring that certain data processing software exempt from public records requirements is considered a trade secret; removing the scheduled repeal of the public record exemption.

Section 5 amends s. 119.0713, F.S., deleting a provision exempting trade secrets held by local government agencies from public records requirements.

Section 6 amends s. 125.0104, F.S., deleting a provision exempting trade secrets held by county tourism development agencies from public records requirements.

Section 7 amends s. 163.01, F.S., deleting a provision exempting trade secrets held by public agencies that are electric utilities from public records requirements.

Section 8 amends s. 202.195, F.S., deleting a provision exempting trade secrets obtained from a telecommunications company or franchised cable company for certain purposes from public records requirements.

Section 9 amends s. 215.4401, F.S., deleting provisions relating to confidentiality of trade secrets held by the State Board of Administration.

Section 10 amends s. 252.88, F.S., deleting provisions exempting certain information from public records requirements under the Florida Emergency Planning and Community Right-to-Know Act.

Section 11 repeals s. 252.943, F.S., relating to a public record exemption under the Florida Accidental Release Prevention and Risk Management Planning Act.

Section 12 amends s. 287.0943, F.S., deleting provisions relating to confidentiality of certain information relating to applications for certification of minority business enterprises.

Section 13 amends s. 288.047, F.S., deleting provisions exempting potential trade secrets from public records requirements.

Section 14 amends s. 288.075, F.S., deleting provisions relating to a public records exemption for trade secrets held by economic development agencies.

Section 15 amends s. 288.1226, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Florida Tourism Industry Marketing Corporation.

Section 16 amends s. 288.776, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Export Finance Corporation.

Section 17 amends s. 288.9520, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by Enterprise Florida, Inc., and related entities.

Section 18 amends s. 288.9607, F.S., deleting provisions relating to a public record exemption for trade secrets held by the Florida Development Finance Corporation.

Section 19 amends s. 288.9626, F.S., deleting provisions relating to a public record exemption for trade secrets and potential trade secrets held by the Florida Opportunity Fund; conforming provisions to changes made by the act.

Section 20 amends s. 288.9627, F.S., deleting provisions relating to a public records exemption for trade secrets and potential trade secrets held by the Institute for Commercialization of Florida Technology; conforming provisions to changes made by the act.

Section 21 amends s. 331.326, F.S., deleting provisions relating to a public records exemption for trade secrets held by Space Florida.

Section 22 amends s. 334.049, F.S., deleting provisions relating to a public records exemption for trade secrets held by the Department of State.

Sections 23 and 24 amend ss. 350.121 and 364.183, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Public Service Commission.

Section 25 amends 365.174, F.S., deleting provisions relating to public record exemptions for trade secrets held by the E911 Board and the Technology Program within the Department of Management Services.

Sections 26, 27, and 28 amend ss. 366.093, 367.156, and 368.108, F.S., deleting provisions relating to public records exemptions for trade secrets held by the Florida Public Service Commission.

Section 29 repeals s. 381.83, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Health.

Section 30 amends s. 403.7046, F.S., revising provisions relating to a public record exemption for trade secrets contained in certain reports to the Department of Environmental Protection.

Section 31 repeals s. 403.73, F.S., relating to confidentiality of certain information containing trade secrets obtained by the Department of Environmental Protection.

Section 32 amends s. 408.061, F.S., deleting a requirement that certain trade secret information submitted to the Agency for Healthcare Administration be clearly designated as such.

Section 33 amends s. 408.185, F.S., deleting provisions relating to public record exemptions for certain trade secrets held by the Office of the Attorney General.

Section 34 amends s. 408.910, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida Health Choices Program.

Section 35 amends s. 409.91196, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Agency for Healthcare Administration.

Section 36 amends s. 440.108, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services.

Section 37 amends s. 494.00125, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation

Section 38 amends s. 497.172, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the Board of Funeral, Cemetery, and Consumer Services.

Sections 39, 40, 41, and 42 amend ss. 499.012, 499.0121, 499.05, and 499.051, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Business and Professional Regulation.

Section 43 repeals s. 499.931, F.S., relating to maintenance of information held by the Department of Business and Professional Regulation that is deemed to be a trade secret.

Section 44 amends s. 501.171, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Legal Affairs.

Section 45 repeals s. 502.222, F.S., relating to trade secrets of a dairy business held by the DACS.

Sections 46 and 47 amend ss. 517.2015 and 520.9965, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 48 amends s. 526.311, F.S., deleting provisions relating to public record exemptions for trade secrets held by the DACS.

Section 49 amends s. 548.062, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Florida State Boxing Commission.

Section 50 amends s. 556.113, F.S., deleting provisions relating to public record exemptions for trade secrets held by Sunshine State One-Call of Florida, Inc.

Section 51 amends s. 559.5558, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 52 amends s. 559.9285, F.S., revising provisions specifying that certain information provided to the DACS does not constitute a trade secret.

Section 53 amends s. 560.129, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Office of Financial Regulation.

Section 54 amends s. 570.48, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Division of Fruit and Vegetables.

Sections 55 and 56 amend ss. 570.544 and 573.123, F.S., deleting provisions relating to public record exemptions for trade secrets held by the DACS' Division of Consumer Services.

Section 57 repeals s. 581.199, F.S., relating to a prohibition on the use of trade secret information obtained under specified provisions for personal use or gain.

Sections 58, 59, and 60 amend ss. 601.10, 601.15, and 601.152, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Citrus.

Section 61 amends s. 601.76, F.S., relating to a public record exemption for certain formulas filed with the DACS.

Sections 62 and 63 amend ss. 607.0505 and 617.0503, F.S., deleting provisions relating to public record exemptions for certain information that might reveal trade secrets held by the Department of Legal Affairs.

Section 64 amends s. 624.4212, F.S., deleting provisions relating to public record exemptions for trade secrets held by the OIR.

Section 65 repeals s. 624.4213, F.S., relating to trade secret documents submitted to the Department of Financial Services or the OIR.

Sections 66 and 67 amend ss. 626.84195 and 626.884, F.S., deleting provisions relating to public record exemptions for trade secrets held by the OIR.

Section 68 amends s. 626.9936, F.S., revising provisions relating to a public record exemption for trade secrets held by the OIR.

Sections 69 and 70 amend ss. 627.0628 and 627.3518, F.S., deleting provisions relating to public record exemptions for trade secrets held by the Department of Financial Services or the OIR.

Section 71 amends s. 655.057, F.S., revising provisions relating to a public record exemption for trade secrets held by the Office of Financial Regulation.

Section 72 repeals s. 655.0591, F.S., relating to trade secret documents held by the Office of Financial Regulation.

Section 73 amends s. 663.533, F.S., revising a cross-reference.

Section 74 repeals s. 721.071, F.S., relating to trade secret documents filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Section 75 amends s. 815.04, F.S., deleting a public record exemption for certain trade secret information relating to offenses against intellectual property.

Section 76 repeals s. 815.045, F.S., relating to trade secret information.

Section 77 amends s. 1004.43, F.S., revising provisions relating to public record exemptions for trade secrets and potential trade secrets held by the H. Lee Moffitt Cancer Center and Research Institute.

Section 78 amends s. 1004.78, F.S., deleting provisions relating to public record exemptions for trade secrets and potential trade secrets held by the technology transfers centers at Florida College System institutions.

Section 79 amends s. 601.80, F.S., correcting a cross-reference.

Sections 80, 81, and 82 amend ss. 663.533, 721.13, and 921.0022, F.S., conforming provisions to changes made by the act.

Section 83 provides an effective date of upon becoming a law if SB 1414 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may require agencies to train staff and institute new procedures to implement this policy.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 24.105, 73.0155, 119.071, 119.0713, 125.0104, 163.01, 202.195, 215.4401, 252.88, 287.0943, 288.047, 288.075, 288.1226, 288.776, 288.9520, 288.9607, 288.9626, 288.9627, 331.326, 334.049, 350.121, 364.183, 365.174, 366.093, 367.156, 368.108, 403.7046, 408.061, 408.185, 408.910, 409.91196, 440.108, 494.00125, 497.172, 499.012, 499.0121, 499.05, 499.051, 499.931, 501.171, 517.2015, 520.9965, 526.311, 548.062, 556.113, 559.5558, 559.9285, 560.129, 570.48, 570.544, 573.123, 601.10, 601.15, 601.152, 601.76, 607.0505, 617.0503, 624.4212, 626.84195, 626.884, 626.9936, 627.0628, 627.3518, 655.057, 655.0591, 663.533, 815.04, 1004.43, 1004.78, 601.80, 721.13, and 921.0022.

This bill creates s. 119.07135, and repeals ss. 252.943, 381.83, 403.73, 815.045, 721.071, 624.4213, 581.199, 502.222 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on March 25, 2019:

- Maintains current law regarding confidentiality of trade secrets contained in records held by and discussed at meetings of hospitals regulated by ch. 395, F.S.;
- Deletes language that would have allowed the OIR to aggregate trade secret information and issue it in public reports; and
- Clarifies that trade secrets contained in contracts, agreements, or addenda thereto to which research institutes created or established by law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System Institutions are party are exempt from disclosure.

- B. **Amendments:**

None.