

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 Regulated Industries

BILL: SPB 7008

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: OGSR/Florida Gaming Control Commission

DATE: November 17, 2025 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Baird	Imhof		Pre-meeting

I. Summary:

SPB 7008 extends the current public record and meeting exemption for exempt or confidential and exempt information held by the Florida Gaming Control Commission by removing the scheduled repeal date.

Under the Open Government Sunset Review Act (OGSR), the Legislature is required to review each public record and public meeting exemption 5 years after enactment.

These exemptions are scheduled to be repealed on October 2, 2026, if the bill does not become law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. See, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ *See, e.g.*, s.119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Florida Gaming Control Commission

In 2021, the Florida Legislature created the Florida Gaming Control Commission (FGCC) to regulate gaming activities throughout the state.³² The FGCC is a five-member independent regulatory body.³³

The FGCC is authorized to exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the federal Indian Gaming Regulatory Act, 24 U.S.C. s. 2701 et seq. and any other forms of gambling authorized by the State Constitution or law, excluding the Lottery games authorized by section 15 of Article X of the State Constitution and ch. 24, F.S.

The FGCC is housed within the Department of Legal Affairs, but is a separate budget entity and serves as the agency head. It is not subject to the control, supervision, or direction of the Department of Legal Affairs or the Attorney General.³⁴

The FGCC is also authorized to:

- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the FGCC's regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Id.*

³¹ *See supra* note 10.

³² Section 16.712, F.S.

³³ FGCC members are appointed by the Governor and subject to confirmation by the Senate for a 4 year term: One member must have at least 10 years of experience in law enforcement and criminal investigations, one must be a certified public accountant with at least 10 years of experience in accounting and auditing, and one must be an attorney admitted to the Florida Bar for at least the preceding 10 years. *See* s. 16.71(2), F.S.

³⁴ Section 16.71, F.S.

- Evaluate, as the state compliance agency, information that is reported by sports governing bodies or other parties to the FGCC relating to:
 - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
 - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing, suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
 - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the FGCC.
- Review the regulation of licensees, permitholders, or persons regulated by the FGCC and the procedures used by the FGCC to implement and enforce the law.
- Review the procedures of the FGCC which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement these provisions.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,³⁵ with specified exceptions.³⁶ The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset

³⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

³⁶ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

date.³⁷ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁸ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program and administration would be significantly impaired without the exemption;³⁹
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁴⁰ or
- It protects trade or business secrets.⁴¹

The act also requires specified questions to be considered during the review process.⁴² In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁴³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁴⁴

³⁷ Section 119.15(3), F.S.

³⁸ Section 119.15(6)(b), F.S.

³⁹ Section 119.15(6)(b)1., F.S.

⁴⁰ Section 119.15(6)(b)2., F.S.

⁴¹ Section 119.15(6)(b)3., F.S.

⁴² Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

⁴³ FLA. CONST. art. I, s. 24(c).

⁴⁴ Section 119.15(7), F.S.

Public Record and Meeting Exemption Under Review

In 2021, the Legislature created a public record exemption for exempt or confidential and exempt⁴⁵ information obtained by the FGCC.⁴⁶ Such information may be released by the FGCC, upon written request, to another agency or governmental entity in the performance of the FGCC's official duties and responsibilities. Any agency or governmental entity receiving such information must maintain its exempt or confidential and exempt status to keep information shielded from regular public records laws.⁴⁷

The FGCC typically holds monthly public meetings where notice is posted on their website at <https://flgaming.gov/meetings/>. At the FGCC meetings, if there is a portion of a meeting that would reveal the exempt or confidential and exempt information, then the FGCC chair must publicly announce the necessity for closing the meeting before closure.⁴⁸ The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the FGCC.⁴⁹ The portion of the meeting that is closed must be preserved as a public record and include all discussion and proceedings, and the names of all persons present.⁵⁰ Those records from the closed portion of a meeting are confidential and exempt until such time as the information is no longer exempt or confidential and exempt.⁵¹

The 2021 public necessity statement provided that:⁵²

In the absence of this public records [and meetings] exemption, sensitive confidential or exempt information, including criminal intelligence information and criminal investigative information, would be disclosed, thus eliminating the protected status of the information obtained by the commission. If the commission is unable to maintain the exempt or confidential and exempt status of the information received, the commission would be unable to effectively and efficiently perform its duties and responsibilities.⁵³

⁴⁵ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 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 Op. Att'y Gen. Fla. 04-09 (2004).

⁴⁶ Section 16.716, F.S.

⁴⁷ Section 16.716(1)(a), F.S.

⁴⁸ Section 16.716(1)(b)1.a., F.S.

⁴⁹ Section 16.716(1)(b)1.b., F.S.

⁵⁰ Section 16.716(1)(b)1.c., F.S.

⁵¹ Section 16.716(1)(b)3., F.S.

⁵² FLA. CONST. art. I, s. 24(c), requires each public record and meeting exemption to "state with specificity the public necessity justifying the exemption."

⁵³ Ch. 2021-270, Laws of Fla. (creating s. 16.716, F.S., effective May 25, 2021).

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2026, unless reenacted by the Legislature.

Open Government Sunset Review of the Public Records and Open Meeting Exemptions for the Florida Gaming Control Commission

During the 2025 interim, the staff of the Senate Regulated Industries Committee and the House Government Operations Subcommittee met jointly with the staff of the FGCC regarding the exemptions under review. The FGCC staff also completed the Senate committee questionnaire concerning the exemptions under review.⁵⁴

Public Record Exemption Findings

The FGCC indicated that the public record exemption affected non-sworn commission investigators, law enforcement, including Division of Gaming Enforcement personnel, criminal organizations, permitholders and licensees, news media, and the public. The types of records that were protected include: criminal intelligence information and criminal investigative information obtained by non-sworn commission investigators (*see, e.g. s. 550.0251(9), F. S., information designated as a trade secret*).⁵⁵

The FGCC also indicated that the protected record information under s. 16.716, F.S., could not be protected any other way and recommended that the exemption should be reenacted in its current form.⁵⁶

Public Meeting Exemption Findings

The FGCC indicated that when the commission exercises its executive and regulatory powers delegated under s. 16.712, F.S., the commissioners may be required to review and discuss information that is exempt from public disclosure under ch. 119, F.S., including criminal and administrative investigative information and information designated as a trade secret.⁵⁷

The FGCC also noted that except for s. 16.716, F.S., there are no other provisions to shield criminal intelligence information, criminal investigative information, investigative information collected by non-sworn investigators, and information designated as a trade secret from been disclosed during the public meetings of the commission. The FGCC further explained that s. 286.011, F.S., standing alone, does not allow the commission to close portions of public meetings solely because exempt information is to be discussed. Section 286.011, F.S., only references certain forms of litigation as a sufficient basis to close a public meeting.⁵⁸

The FGCC staff recommended that the exemption be reenacted in its current form.⁵⁹

⁵⁴ *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on August 4, 2025, by Mr. Ross Marshman, Acting Executive Director, on behalf of the Florida Gaming Control Commission (on file with Senate Committee on Regulated Industries).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* See also s. 286.011(8), F.S., regarding pending litigation.

⁵⁹ *Id.*

Representatives from the gaming and pari-mutuel industries were also sent the questionnaire, yielding a single response recommending to reenact the public meeting exemption.⁶⁰

III. Effect of Proposed Changes:

Section 1 amends s. 16.716, F.S., to remove the scheduled repeal date to preserve the current public record and meeting exemption for exempt or confidential and exempt information obtained by the FGCC.

Section 2 provides that the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does expand an exemption; thus, the bill does require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does expand an exemption; thus, a statement of public necessity is required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

⁶⁰ See *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on September 29, 2025, by Mr. Gary Rutledge, Attorney, on behalf of clients : 831 Federal Highway Acquisition d/b/a/ The Big Easy Casino, St. Petersburg Kennel Club (Derby Lane), Sarasota Kennel Club, Fronton Holdings (Ft. Pierce), Tampa Bay Downs, Tampa Greyhound and Washington County Kennel Club (Ebro), (on file with Senate Committee on Regulated Industries).

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 16.716 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.