



LEGISLATIVE REPORT

-
- Current action
 - CS Committee Substitute
 - P Passed both Chambers
-

For Period Ending January 29

CONTRACTORS

CS/HB 273 Public Records/Public Agency Contracts: Amends s. 119.07(1), F.S., to include requirements on the transfer and retention of public records by a contractor upon completion of the contract. Stipulates that requests to inspect or copy public records relating to an agency's contract for services must be made directly to the agency. If the agency doesn't possess the requested records, the agency must immediately notify the contractor of the request, and the contractor must provide the records to the agency or allow the records to be inspected or copied within a reasonable period of time. Contractors who fail to provide the requested records to the agency within a reasonable time may be subject to penalties under s. 119.10. If a civil action is filed against a contractor to compel the contractor to produce records relating to a contract for services, the contractor will be required to pay reasonable attorney fees and costs *if* (1) a court determines the contractor unlawfully refused to comply with the public record request within a reasonable period of time; *and* (2) the requestor provides written notice of the request, including a statement that the contractor has failed to comply with the request, to the public agency and to the contractor at least 8 days prior to filing the action. Finally, a contractor who complies with a public record request within 8 days of the notice being sent will not be liable for attorney fees and costs. Companion to SB 390. *Rep. Halsey Beshears (R-Perry)*

- House: Passed the House by a vote of 110/7. Now in S. Messages. To see the House vote on CS/HB 273, click here: <http://bit.ly/1KHph7m>
- Senate: Substituted for CS/SB 390 and rolled to third reading for final passage.

CS/SB 390 Public Records/Public Agency Contracts: Amends s. 119.0701, F.S., to include requirements on the transfer and retention of public records by a contractor upon completion of the contract. Stipulates that requests to inspect or copy public records relating to an agency's contract for services must be made directly to the agency. If the agency doesn't possess the requested records, the agency must immediately notify the contractor of the request, and the contractor must provide the records to the agency or allow the records to be inspected or copied within a reasonable period of time. Contractors who fail to provide the requested records to the agency within a reasonable time may be subject to penalties under s. 119.10. If a civil action is filed against a contractor to compel the contractor to produce records relating to a contract for services, the contractor will be required to pay reasonable attorney fees and costs *if* (1) a court determines the contractor unlawfully refused to comply with the public record request within a reasonable period of time; *and* (2) the requestor provides written notice of the request, including a statement that the contractor has failed to comply with the request, to the public agency and to the

contractor at least 8 days prior to filing the action. Finally, stipulates that an award for reasonable attorney fees and costs must be in accordance with s. 119.12. Companion to HB 273. *Sen. Wilton Simpson (R-New Port Richey)*

- Senate Special Order Calendar: Tabled; CS/HB 273 substituted. See CS/HB 273.

CRIMINAL JUSTICE

CS/SB 386 Expunction/Criminal History Records – Minors: Amends the provisions under ch. 943 relating to expunction of criminal history records of minors not classified as serious habitual offenders. Currently, s. 943.0515(1)(b), F.S., requires that such records be retained for 5 years after the minor turns 19, after which the record can be expunged under certain specified conditions. SB 386 allows expunction two years after the minor turns 19. Amends s. 943.0515(1)(b), F.S. Companion to HB 147. *Sen. Nancy Detert (R-Venice)* WATCH

- Senate: Passed unanimously. Now in H. Messages.

CS/HB 475 Exemption/Identity of Felony Witnesses: Creates a public record exemption for personal identifying information of those who witness a felony, stipulating that such information remains exempt for two years after the date on which the felony is observed. Creates s. 119.071(2)(m), F.S. Companion to SB 1314. *Rep. Edwin Narain (D-Tampa)* ☹

★ To see FAF's letter on HB 475, click here: <http://bit.ly/1Z8sS4O>

- H. Government Operations Subcommittee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/HB 475 creates a public record exemption for the personal identifying information of those who witness a murder, stipulating that such information remains exempt for two years after the date on which the murder was observed. Allows disclosure of the exempt information to a criminal justice agency or another governmental agency for use in the performance of its official duties and responsibilities. Now in H. Judiciary Committee.

EXAMINATIONS AND INVESTIGATIONS

HB 643 Exemption/Investigations – Department of Agriculture and Consumer Services: Creates a public record exemption for information received or developed by the Department of Agriculture and Consumer Services (DOACS) as part of a joint or multiagency examination or investigation with another state or federal agency. Also exempts criminal or civil intelligence, investigative information, or any other information held by DOACS received from a state or federal regulatory, administrative, or criminal justice agency that is exempt pursuant to federal law or the laws of other states. Creates s. 570.077, F.S. Companion to SB 754. *Rep. Jay Trumbull (R-Panama City)*

- H. Government Operations Subcommittee: Reported favorably. Now in H. Regulatory Affairs Committee.

SB 754 Exemption/Investigations – Department of Agriculture and Consumer Services: Creates a public record exemption for information received or development by the Department as part of a joint or multiagency examination or investigation with another state or federal agency. Also exempts criminal or civil intelligence, investigative information, or any other information held by the Department which is received from a state or federal regulatory, administrative, or criminal justice agency which is exempt pursuant to federal law or the laws of other states. Creates s. 570.077, F.S. Companion to HB 643. *Sen. Garrett Richter (R-Naples)*

- S. Commerce and Tourism Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

SB 7002 OGSR/Investigative and Audit Reports – Inspectors General: Reenacts, with minor modification, the public record exemption for audit reports of internal auditors and investigative reports of inspectors general prepared on behalf of a unit of local government, stipulating that such records are subject to disclosure when the audit or investigation is final. Reenacts s. 119.0713(2), F.S. Companion to HB 7037. *S. Community Affairs Committee*

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate.

SB 7032 OGSR/Examinations and Investigations – Office of Financial Regulation: Reenacts, without modification, the public record exemption for information received by the Office of Financial Regulation (OFR) from another state or a federal agency that is otherwise confidential or exempt. Also reenacts the exemption for information that is received or developed by OFR as part of a joint or multiagency examination or investigation. Reenacts s. 119.0712(3), F.S. Companion to HB 7035. *S. Banking and Insurance Committee*

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate.

HB 7035 OGSR/Examinations and Investigations – Office of Financial Regulation: Reenacts, without modification, the public record exemption for information received by the Office of Financial Regulation (OFR) from another state or a federal agency that is otherwise confidential or exempt. Also reenacts the exemption for information that is received or developed by OFR as part of a joint or multiagency examination or investigation. Reenacts s. 119.0712(3), F.S. Companion to SB 7032. *H. Government Operations Subcommittee*

- House: Passed the House unanimously. Now in S. Messages.

FINANCIAL INFORMATION

CS/SB 196 Exemption/State Infrastructure Bank: Creates a public record exemption for financial statements or other financial information received by the Department of Transportation from a private entity as part of an application to the state-funded infrastructure bank. Stipulates that the exemption does not apply to records of applicants who are in default of a previously issued loan. Amends s. 339.55, F.S. Companion to HB 267. *Sen. Travis Hutson (R-Palm Coast)* ☹

★ To see FAF's letter on SB 196, click here: <http://bit.ly/1OCKNz1>

- Senate Special Order Calendar: Rolled to third reading.

CS/HB 267 Exemption/State Infrastructure Bank: a public record exemption for financial information provided by a private entity to the Department of Transportation as part of the application process for loans or credit enhancements from the state-funded infrastructure bank. Stipulates that the exemption does not apply to records of applicants who are in default of a previously issued loan. Amends s. 339.55, F.S. Companion to SB 196. *Rep. Mike LaRosa (R- Saint Cloud)* ☹

★ To see FAF's letter on HB 267, click here: <http://bit.ly/1n6n2Fr>

- H. Economic Affairs Committee: Reported favorably by a vote of 14/1, with Rep. Geller voting no.

SB 1094 Exemption/Limited Purpose International Trust Companies: Creates a public record exemption for personal identifying information contained in records held by the Office of Financial Regulation relating

to: (1) applications; (2) new or renewal registrations; (3) investigations; and (4) reports or investigations, including working papers, of a limited purpose trust company representative office. Also exempts the names of existing or prospective clients of affiliated international trust companies, and records received by OFR from another state or country that are otherwise confidential or exempt. Stipulates that the intentional disclosure of such information is a third degree felony. Creates s. 663.097, F.S. *Sen. Anitere Flores (R-Miami) ???*

- S. Banking and Insurance Committee: A minor technical amendment is adopted; reported favorably as a committee substitute. Now in S. Governmental Oversight and Accountability Committee.

INSURANCE

HB 1165 Exemption/ORSA Reports – Office of Insurance Regulation: Creates a public record exemption for own-risk and solvency assessment (ORSA) reports and supporting documentation provided to the Office of Insurance Regulation pursuant to s. 628.8015, F.S. Amends s. 624.4212, F.S. Companion to SB 1416. *Rep. Bill Hager (R-Boca Raton) ???*

- H. Insurance and Banking Subcommittee: A minor amendment is adopted; reported favorably as a committee substitute. Now in H. State Affairs Committee.

SB 1416 Exemption/ORSA Reports – Office of Insurance Regulation: Creates a public record exemption for own-risk and solvency assessment (ORSA) reports and supporting documentation provided to the Office of Insurance Regulation pursuant to s. 628.8015, F.S. Amends s. 624.4212, F.S. Companion to HB 1165. *Sen. David Simmons (R-Altamonte Springs) ???*

- S. Banking and Insurance Committee: Two minor amendments are adopted; reported favorably as a committee substitute. Now in S. Governmental Oversight and Accountability Committee.

LICENSED PROFESSIONALS

HB 1063 Exemption/Nursing Licensure Compact: HB 1061 enacts the Nurse Licensure Compact, a multi-state agreement that establishes a national recognition system for the licensure of nurses, allowing nurses who receive multi-state licenses in another state to practice in Florida. By enacting the Compact, Florida is required to adopt model legislation created by the National Council of State Boards of Nursing. HB 1063 creates a public record exemption for a nurse's personal identifying information obtained from the "coordinated licensure information system" held by the Department of Health or the Board of Nursing *unless* the state that originally reported the information authorizes disclosure by law. Also exempts meetings or portions of meetings of the Interstate Commission of Nurse Licensure Compact Administrators when discussing (1) the failure of a party state to comply with the Compact; (2) employment, compensation, discipline, or other personnel matters, practices, or procedures; (3) current, threatened, or reasonably anticipated litigation; (4) negotiation of contracts for the purchase or sale of goods, services, or real estate; (5) accusing any person of a crime or formally censuring any person; (6) trade secrets or commercial or financial information required by the commission's bylaws or rules to be kept privileged or confidential; (7) information of a personal nature which the commission determines by a majority vote would constitute an unwarranted invasion of personal privacy if disclosed; (8) active investigative records compiled for law enforcement purposes; (9) investigative reports prepared by or on behalf of the commission; (10) information made exempt by state or federal law; and (11) information made exempt pursuant to rules or bylaws of the commission which protect privacy and proprietary information. Finally,

creates a public record exemption for any records created during exempt meetings. Creates s. 464.0096, F.S. Companion to SB 1306. *Rep. Cary Pigman (R-Sebring)* ☹

★ To see FAF's letter on 1063, click here: <http://bit.ly/1J5y4ET>

- H. Health and Human Services Committee: Reported favorably by a vote of 16/1, with Rep. Berman voting no. Now on H. Calendar.

PERSONAL INFORMATION

SB 914 Exemption/Identifying Information – Property Tax Exemption for Disabled Persons: Creates a public record exemption for medical information and personal identifying information of applicants and recipients of a property tax exemption for totally and permanently disabled persons held by a property appraiser or tax collector, and the Department of Revenue, Auditor General, and the Office of Program Policy Analysis and Government Accountability. Amends s. 119.071(5), F.S. Companion to HB 901. *Sen. Nancy Detert (R-Venice)* ☹

★ To see FAF's letter on SB 914, click here: <http://bit.ly/1Pe6Ms0>

- S. Community Affairs Committee: Reported favorably. Now in S. Governmental Oversight and Accountability Committee.

HB 1153 Exemption/Identifying Information – Florida Wildlife Conservation Commission Licensure: Creates a public record exemption for “personal information” held by the Florida Wildlife Conservation Commission in connection with recreational fishing, hunting, or use licenses and permits, and hunter and boating safety certification. Defines “personal information” as an individual’s name, photograph, social security number, driver license number, date of birth, address, telephone number, email address, and medical or disability information. Allows access to an individual’s zip code. Creates s. 379.107, F.S. Companion to SB 1364. *Rep. Tom Goodson (R-Titusville)* ☹

★ To see FAF's letter on HB 1153, click here: <http://bit.ly/1ROkDMI>

- H. Agriculture and Natural Resources Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/HB 1153 allows access to the exempt information by a commercial entity for certain specified purposes. The bill is now in the H. Government Operations Subcommittee.

SB 1364 Exemption/Identifying Information – Florida Wildlife Conservation Commission Licensure: Creates a public record exemption for “personal information” held by the Florida Wildlife Conservation Commission in connection with recreational fishing, hunting, or use licenses and permits, and hunter and boating safety certification. Defines “personal information” as an individual’s name, photograph, social security number, driver license number, date of birth, address, telephone number, email address, and medical or disability information. Allows access to an individual’s zip code. Creates s. 379.107, F.S. Companion to HB 1153. *Sen. Alan Hays (R-Umatilla)* ☹

★ To see FAF's letter on SB 1364, click here: <http://bit.ly/1NBFVVP>

- S. Environmental Preservation and Conservation Committee: A strike-all amendment conforming SB 1364 to its House companion, HB 1153, as amended is adopted. Now in S. Governmental Oversight and Accountability Committee.

CS/SB 7004 OGSR/Identifying Information – Emergency Notification System: Reenacts and slightly modifies the public record exemption for personal information provided to an agency for the purpose of

receiving emergency notifications. Reenacts s. 119.071(5)(j), F.S. Companion to HB 7033. *S. Community Affairs Committee*

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate.

SB 7020 OGSR/Identifying Information – Florida Health Choices Program: Reenacts, without modification, public record exemptions for information identifying participants and proprietary confidential business information held by the Florida Health Choices Program. Reenacts s. 408.910(4), F.S. *S. Health Policy Committee*

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate.

SB 7024 OGSR/Identifying Information – Florida Center for Brain Tumor Research: Reenacts, without modification, the public record exemption for personal identifying information of donors to the central repository for brain tumor biopsies or the brain tumor registry. Reenacts s. 381.8531, F.S. Companion to HB 7041. *S. Health Policy Committee*

- Senate Special Order Calendar: Rolled to third reading for passage by the Senate.

HB 7033 OGSR/Personal Information – Emergency Notification System: Reenacts, without modification, the public record exemption for personal information provided to an agency for the purpose of receiving emergency notifications. Reenacts s. 119.071(5)(j), F.S. Companion to SB 7004. *H. Government Operations Subcommittee*

- House: Passed the House unanimously. Now in S. Messages.

PROCUREMENT

SB 7030 OGSR/Competitive Solicitations: Reenacts, without modification, the limited public record exemption for sealed bids or proposals received by an agency pursuant to a competitive solicitation. Also reenacts, without change, the meetings exemption for portions of meetings at which negotiations with vendors are conducted pursuant to a competitive solicitation and certain portions of team Reenacts ss. 119.071(1)(b) and 286.0113(2), F.S. Companion to HB 7067. *S. Governmental Operations and Accountability Committee*

- Senate: Passed unanimously. Now in H. Messages.

PROPRIETARY INFORMATION

CS/HB 55 Exemption/Trade Secret - Financial Information: Currently, s. 812.081, F.S., provides a public record exemption for trade secrets, defined as “any scientific, technical, or commercial information.” CS/HB 55 expands that definition to include financial information, meaning that all public record exemptions for trade secret information will also exempt financial information. A companion bill, HB 57, reenacts all trade secret exemptions under ch. 119, F.S., to incorporate the expanded definition. Amends s. 812.081, F.S. Companion to SB 180. *Rep. Ray Pilon (R-Sarasota)*

★ To see FAF’s letter on HB 55, click here: <http://bit.ly/1RcjL3W>

- House: Tabled; CS/SB 180 substituted.

P CS/SB 180 Exemption/Trade Secret - Financial Information: Currently, s. 812.081, F.S., provides a public record exemption for trade secrets, defined as “any scientific, technical, or commercial information.” CS/SB 180 expands that definition to include financial information, meaning that all public record

exemptions for trade secret information will also exempt financial information. A companion bill, SB 182, reenacts all trade secret exemptions under ch. 119, F.S., to incorporate the expanded definition. Amends s. 812.081, F.S. Companion to HB 55. *Sen. Garrett Richter (R-Naples)* ☹

★ To see FAF's letter on SB 180, click here: <http://bit.ly/1kPLedl>

- House: Substituted for CS/HB 55 and passed the House by a vote of 116/3. PASSED THE LEGISLATURE. To see the House vote on CS/SB 180, click here: <http://bit.ly/1QGrlLl>

CS/SB 578 Exemption/State Boxing Commission: Currently, s. 548.062, F.S., provides an exemption for proprietary confidential business information contained in a written report that promoters are required to file with the State Boxing Commission after a boxing match. SB 578 expands the public record exemption to protect all proprietary confidential business information provided by a promoter to the Commission.

Amends s. 548.062, F.S. Companion to HB 381. *Sen. Travis Hutson (R-Palm Coast)* ☹

★ To see FAF's letter on CS/SB 578, click here: <http://bit.ly/1Q9ygm3>

- S. Rules Committee: Reported favorably by a vote of 9/1, with Sen. Joyner voting no. Now on the Senate Calendar.

BILLS TO WATCH – HB 381 and SB 578: According to the Senate sponsor, the true purpose of this expansion of an already broad public record exemption is to protect the outcome of a boxing match prior to the match being televised. In other words, we're creating an exception to our constitutional right of access to protect information about who won a match? It's this sort of proposal that makes a mockery of our constitutional right of access.

PUBLIC EMPLOYEES

HB 587 Exemption/Home Addresses – Inspectors General: Creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general and those whose duties include conducting internal audits. Also exempts the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel, and the names and locations of schools and day care facilities attended by their children. Creates s.

119.071(4)(d)2.o., F.S. Companion to SB 752. *Rep. Bobby Powell (D-West Palm Beach)* ☹

★ To see FAF's letter on HB 587, click here: <http://bit.ly/1VN7rpP>

- H. Government Operations Subcommittee: An amendment making minor changes is adopted; reported favorably as a committee substitute by a vote of 14/1, with Rep. Santiago voting no. Now in H. State Affairs Committee.

CS/SB 592 Exemption/Home Addresses – DFS Non-Sworn Investigators: Creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former Department of Financial Services (DFS) non-sworn investigative personnel whose duties include investigation of fraud, theft, workers' compensation coverage, criminal activities, and state regulatory requirement violations. Also exempts the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel, and the names and locations of schools and day care facilities attended by their children.

Creates s. 119.071(4)(d)2.a.IV, F.S. Companion to HB 463. *Sen. Travis Hutson (R-Palm Coast)* ☹

★ To see FAF's letter on SB 592, click here: <http://bit.ly/1Z8uifG>

- S. Rules Committee: Reported favorably by a vote of 10/1, with Sen. Joyner voting no. Now on the Senate Calendar.

PUBLIC RECORDS

HB 1089 Fees for Public Records/Agency for Persons with Disabilities: Adds the Agency for Persons with Disabilities to the list of agencies and vendors that pay a reduced per record fee for criminal history information. Amends s. 943.053, F.S. Companion to SB 628. *Rep. Patrick Joseph Rooney (R-Palm Beach Gardens)* WATCH

- H. Criminal Justice Subcommittee: Reported favorably. Now in H. Justice Appropriations Subcommittee.

SB 1220 Public Record/Reasonable Attorney Fees and Costs: Current law requires a court to award reasonable attorney fees and costs when the court finds that an agency violated the public records law. SB 1220 amends the attorney fee provision to say the court *may* award such fees and costs, and requires plaintiffs to provide notice of a public record request to an agency at least five days before filing suit to force compliance with the public records law. Amends s. 119.12, F.S. Companion to HB 1021. *Sen. Rene Garcia (R-Hialeah)* ☹️

★ To see FAF's letter on SB 1220, click here: <http://bit.ly/1MW1MXK>

- S. Governmental Oversight and Accountability Committee: A strike-all amendment is adopted; reported favorably as a committee substitute. As amended, CS/SB 1220 amends the attorney fee provision to say the court *may* award reasonable attorney fees and costs when the court finds that an agency violated the public records law *and* the requestor has provided written notice of the public record request to the custodian of records at least five business days before filing the lawsuit. Also prohibits a court from awarding reasonable fees and costs if the court determines that the request to inspect or copy public records was made in bad faith or was frivolous. Now in S. Judiciary Committee.

UPDATE: The amendment to SB 1220, offered by Sen. Hays, makes the bill even worse in that it allows the court to delve into the requestor's motivation in making the public record request.

SECURITY

CS/SB 624 Exemption/State Agency Cyber Security Programs: Creates a public record exemption for records held by a state agency which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including breaches. The exemption applies if disclosure of such records would facilitate unauthorized access to or modification, disclosure, or destruction of data, information, or information technology resources. Also creates an exemption for portions of risk assessments, evaluations, external audits, and other reports of a state agency's cyber security programs. Amends s. 282.318(4), F.S. Companion to HB 1037. *Sen. Alan Hays (R-Umatilla)*

- Senate: Passed unanimously. Now in H. Messages.

HB 1025 Exemption/Utility Agency Information Technology Security: Amends s. 119.0713, F.S., to create a public record exemption for information relating to the security of a utility agency's technologies, processes, and practices designed to protect networks, computers, programs, and data from attack, damage, or unauthorized access which, if disclosed, could be used to alter, disclose, or destroy data or

information technology resources. Also exempts security information whether physical or virtual, relating to the utility's existing or proposed information technology systems or industrial control systems which, if disclosed, could affect security, economic security, or public health or safety. Finally, creates an exemption for information that identifies security firms used by the utility to secure and store data or provide information technology services. Amends s. 119.0713, F.S. Companion to SB 776. *Rep. Bruce Antone (D-Orlando) ???*

★ To see FAF's letter on HB 1025, click here: <http://bit.ly/1Rcksu1>

- H. Energy and Utilities Subcommittee: A strike-all amendment narrowing the exemption is adopted; reported favorably as a committee substitute. As amended, CS/HB 1025 amends s. 119.0713, F.S., to create a public record exemption for information relating to the security of a utility agency's technologies, processes, and practices designed to protect networks, computers, programs, and data from attack, damage, or unauthorized access which, if disclosed, could be used to alter, disclose, or destroy data or information technology resources. Also exempts security information whether physical or virtual, relating to the utility's existing or proposed information technology systems or industrial control systems which, if disclosed, could affect security, economic security, or public health or safety. Now in H. Regulatory Affairs Committee.

UPDATE: The amendment to HB 1025 addressed concerns raised by the First Amendment Foundation and our position on the bill is now neutral.

» «

If you'd like additional information about any of the bills included in this report or to know the Foundation's position on a specific bill, please call 800/337-3518. And check our website, <http://floridafaf.org>, for copies of bill letters to various sponsors.