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BILLS MOVING THROUGH THE FLORIDA LEGISLATURE

Anti-declaratory action bill closer to becoming law

House Bill 913, Lawrence McClure (R-Plant City), was unanimously approved by the House Government Operations subcommittee this week. The bill prohibits an agency from filing a declaratory action against the requestor to determine whether the record is confidential or exempt. The subcommittee adopted an amendment to prevent an agency from bringing a lawsuit to determine whether the record is in fact a public record pursuant to Fla. Stat. § 119.011(12). The bill is now in the House Civil Justice & Property Rights subcommittee. The Senate Judiciary committee will vote on the Senate version, Senate Bill 400, Ray Rodrigues (R-Fort Myers), next Monday.

The bill to hide public records pertaining to the election process of presidents of state university and colleges is moving in the House. The House Post-Secondary Education & Lifelong Learning subcommittee approved **House Bill 997**, Sam Garrison (R-Orange Park), 14-3. Despite a lack of evidence that secrecy will result in better candidates – and overwhelming evidence that secrecy benefits search firms at the expensive of the public's right to know – the bill is moving forward with support. HB 997 is now in the Government Operations subcommittee. Meanwhile, the companion bill, Senate Bill 220, Jeff Brandes (R-St. Petersburg), is in the Senate Rules committee.



ALSO IN THIS EDITION

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OTHER LEGISLATIVE ACTIVITY



House Bill 155, Cyndi Stevenson (R-Saint Augustine) makes confidential and exempts address, telephone number, and email and other information of voter registration applicant or voter. The bill, however, allows political parties and candidates to access the information. The House Public Integrity & Elections committee workshopped the legislation. The Senate Ethics and Elections committee approved **Senate Bill 1492**, Doug Broxson (R-Pensacola), 8-1. SB 1492 is now in the Senate Governmental Oversight and Accountability committee.

Senate Bill 1048, Aaron Bean (R-Jacksonville). The Senate Judiciary committee unanimously approved SB 1048, which creates an exemption for certain information held by a conviction integrity unit within a State Attorney's Office to review claims of actual innocence. The bill applies to information during an active, ongoing, and good faith investigation. The Judiciary committee approved SB 1048 with a committee substitute exempting the information for 2 years during an active investigation. As amended, it is unclear whether the information could be released once an investigation is no longer active but before two years. We intend to suggest another amendment to clarify that the exemption does not apply at the end of two years or when the investigation ceases to be active, whichever is shorter. SB 1048 is now in the Senate Rules committee.

Senate Bill 968, George Gainer (R-Panama City), exempts certain information held by an economic development agency administering state or federally funded small business loan program. This legislation would reduce transparency of government loan programs. The Senate Commerce and Tourism committee approved the bill unanimously, and the bill is now in the Governmental Oversight and Accountability committee.

House Bill 311, David Silvers (D-West Palm Beach), expands the exemption for examination and assessment instruments pertaining to: kindergarten screenings and readiness rates; educational services in the Department of Juvenile Justice; instruction for limited English proficient students; civic literacy assessment for students entering the Florida college system; and educator certification requirements. The bill also creates a new exemption for examinations administered by a Florida College System or State University or the Florida Department of Education. The bill was amended to add assessments administered under the Florida Partnership for Minority and Underrepresented Student Achievement to the public records exemption. The House Post-Secondary Education & Lifelong Learning subcommittee approved HB 311 unanimously.

Senate Bill 1326, Gayle Harrell (R-Stuart), exempts secure login credentials held by the Department of Highway Safety and Motor Vehicles for an electronic credentialing system to transmit digital proof of driver licenses and geolocation data held by DHSMV.

Senate Bill 1502, Gayle Harrell (R-Stuart), exempts and makes confidential information received by the Department of Highway Safety and Motor Vehicles pursuant to investigations authorized by SB 1500, including investigations of improperly issued certificates of title. Information is exempt until an investigation ceases to be active or administrative action taken by the Department has concluded or been made part of any hearing or court proceeding. The Senate Transportation committee unanimously voted in favor of both SB 1326 and 1502.

Senate Bill 1634, Jason Brodeur (R-Lake Mary), exempts and makes confidential records held by the Department of Agriculture related to aquaculture production, shellfish production facilities, and submerged land leases. After unanimous approval by the Senate Agriculture committee, the bill is now in the Senate Governmental Oversight and Accountability committee.

House Bill 1055, Tommy Gregory (R-Bradenton), creates a uniform process to exempt trade secrets in records held by agencies. The Government Operations subcommittee approved an amendment to remove language that specifically excludes from the definition of trade secret the parties to the contract and amount of money paid. This amendment expands the information that would be hidden from the public. Initially, FAF supported this bill because it narrowed and clarified the definition of trade secrets and could prevent misuse and misapplication of trade secret exemptions. Without this narrowing language and due to the expansive amendment, FAF no longer supports this measure.

House Bill 971*, Fiona McFarland (R-Sarasota), exempts and makes confidential all information received by the Department of Legal Affairs pursuant to a notification of a security breach or violation of HB 969, regulating businesses' use of consumer data. This bill makes investigative information confidential, although criminal intelligence information or criminal investigation information pursuant to Fla. Stat. § 119.071(2)(c) is only exempt – not confidential.

House Bill 1, Juan Alphonso Fernandez-Barquin (R-Miami), the “anti-riot” bill cleared the House Judiciary committee on party lines. The bill was amended to state that it does not prohibit constitutionally protected activity such as a peaceful protest. However, the bill would still give law enforcement discretion to arrest peaceful protestors at a demonstrations that turns violent or includes violent acts.

House Bill 35, Randy Fine (R-Palm Bay), moves legal notices from newspapers and their websites to government entities' websites. The House Judiciary committee approved the measure 17-4. HB 35 is now on the House Special Order calendar on Thursday, March 18.

House Bill 1541, Keith Truenow (D-Tavares), which in part increases the maximum penalty for violations of chapter 119 from \$500 to \$2,000, was approved unanimously by the House Criminal Justice & Public Safety subcommittee.

Home Address Exemptions

The first home address exemption of the session is closer to becoming law. The Senate will consider **Senate Bill 68*** Lleana Garcia (R-Miami) for final vote next week. SB 68 exempts the home address, photographs, and other information of current and former staff and domestic violence centers. The House Government Operations subcommittee unanimously approved the House version, **House Bill 691**, David Borrero (R-Miami).

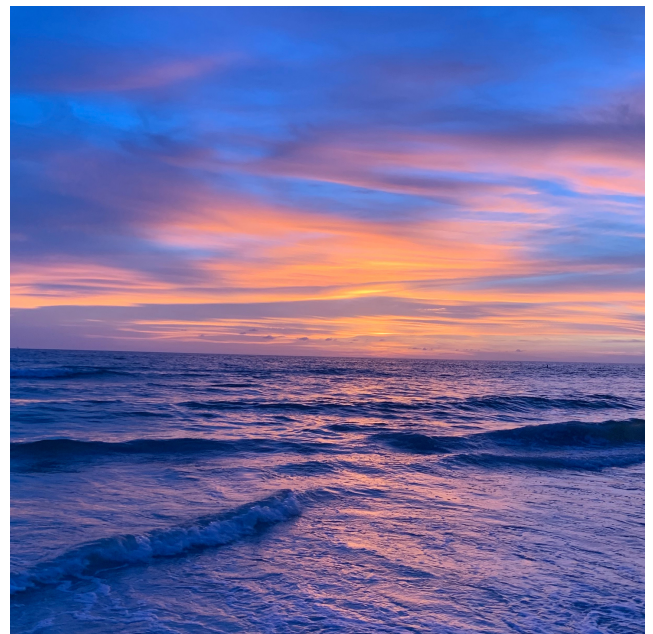
Senate Bill 1594, Janet Cruz (D-Tampa) exempts home addresses, photos, and other personal identifying information of current or former inspectors of the Department of Agriculture and Consumer Services. The public necessity statement was amended to clarify that only current or former inspectors are at risk of harm and removed language that county tax collectors are in danger. SB 1594 passed the Senate Agriculture committee unanimously.

Open Government Sunset Review Act Update

House Bill 7009 saves from repeal the exemption for juvenile criminal history compiled by the Criminal Justice Information program from interstate sources. It was approved unanimously by the House Criminal Justice & Public Safety committee and is now in the House State Affairs committee.

Senate Bill 7058 reinstates the exemption for information that would reveal a trade secret of a dairy industry business.

House Bill 7001 saves from repeal the exemption for meetings held by the Interstate Commission of Nurse Licensure Compact Administrators at which exempt information is discussed. The statute requires minutes be taken at exempt meetings and release of minutes, subject to a majority vote of the commission or court order. The House State Affairs committee approved the bill unanimously.



Bills to Watch Next Week

In addition to hearing the anti-declaratory action bill, SB 400, the Senate Judiciary committee will hear **Senate Bill 1974**, Jason Pizzo (D-Miami). A companion bill, SB 1972, allows the respondent to a petition for injunction seeking protection against domestic violence to ask the court to seal all records if the petition was withdrawn, dismissed, or if there was a court ruling in favor of the respondent. SB 1974 exempts and makes confidential a petition, records and other documents that have been ordered sealed. The public necessity statement explains that individuals who have been accused of domestic violence may face barriers to employment and other opportunities, even if no injunction was granted; however, records could be sealed even if no determination was made whether an injunction should be issued. There is no provision allowing a petitioner of an injunction to access the records. This exemption is overbroad and does not meet the standard for new exemptions required by Art. I, § 24 of the Florida Constitution.

The Senate Ethics & Elections committee will hear **Senate Bill 1488**, Kelli Stargel (R-Lakeland) which exempts the home address of members of the Senate, House of Representatives, and cabinet officers. It will also exempt the names and places of employment of spouses and adult children of lawmakers and cabinet officers. This exemption will make it more difficult for the public to know whether a conflict of interest exists between officials and their spouses or adult children.