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SENATE PASSES ANTI-PROTEST BILL

In the final weeks of session, lawmakers are introducing new legislation and moving forward with the governor's legislative priorities. As we mentioned last week, the Senate Appropriations committee debated and heard testimony from around 9 a.m. to nearly 5 p.m. on **House Bill 1/ Senate Bill 484**, the anti-protest bill. After hours

of hearing public testimony against the bill, the Appropriations committee passed on an 11 to 9 margin – just one vote shy of being defeated. The Senate approved **HB1/SB 484** 23 to 17.



HB 1/SB 484 will chill speech and silence dissent. Moreover, statutes already exists to punish assault, battery, and the destruction of property. There is no need for additional criminal statutes with increased penalties for offenses taking place during a protest. It is our hope there will be an opportunity to challenge this law on constitutional grounds before serious violations of freedom of speech and press occur.

While the Senate makes last minute efforts to pass legislation, the capitol remains closed to the public. Participation is held down the road at the civic center, where the video stream from the capitol has malfunctioned, the sound dropping in and out. Space is limited. Air does not circulate, and many people do not feel safe participating. In a year with restricted participation, the legislature is quickly pushing through legislation implicating citizens' right to speak and petition their government. JUST FOR FUN: Search this document to see how many exemptions passed through committees TODAY by searching "On Friday morning". Did everyone just want to go home? We are closely watching, and we hope you are, too. Blocking public access to open government seems terribly, horribly, awfully popular this year.

Agency Records

House Bill 997, Sam Garrison (R-Orange Park), creates an exemption for personal identifying information of candidates for president of public universities and presidents. The House adopted an amendment to allow the release of names either when the final group of applicants to be considered for president is established or 21 days before the date of a meeting to interview or vote on a candidate, whichever is earlier. The amendment will do little to make the process more transparent. As we mentioned in [our letter to the Senate Education committee](#) on the Senate Bill, search firms shape the entire process. A contract between a search firm and Florida State University provides that the firm, Storbeck Pimentel & Associates, will present the best qualified candidates to FSU. The public will be informed only of the hand-picked candidates of a search firm – not the entire field of candidates. As amended, the bill safeguards the candidate lists held by search firms and reduces input from faculty, students, and the community. The House approved HB 997, [with 16 lawmakers voting no](#). The Senate Rules committee was set to hear **Senate Bill 220**, Jeff Brandes (R-St. Petersburg), Wednesday, April 14. The Senate Rules committee will further consideration on Tuesday, April 20.

Senate Bill 400, Ray Rodrigues (R-Fort Myers), was unanimously approved by the Senate. The bill prohibits an agency from filing a declaratory action against the requestor to determine whether the record is confidential or exempt. This legislation will ensure that public records are available to all, not just requestors with the time and resources to defend a public records lawsuit.

Senate Bill 7078 was unanimously approved by the Senate Regulated Industries committee. **Senate Bill 7076** creates the Gaming Control Commission to regulate and investigate gaming. Senate Bill 7078 provides that exempt and confidential information received by the Commission maintains its status as exempt or confidential and exempt. In addition, SB 7078 exempts portions of meetings of the Commission during which exempt information is discussed or during which the Commission hears or discusses active criminal investigative intelligence information. Closed portions of meetings must be recorded; recordings, minutes, and notes generated during the meeting remain exempt until the investigation ceases to be active. The House version, COM4PB was unanimously approved by the House Commerce committee.

House Bill 379, Mike Giallombardo (R-Cape Coral), was approved by the House with seven representatives voting no. The bill exempts certain information held by an economic development agency administering state or federally funded small business loan program. An agency can release the information in an aggregated and anonymized format. This exemption would preclude oversight of public loan programs. The Senate version, **Senate Bill 968**, George Gainer (R-Panama City), is narrower and exempts

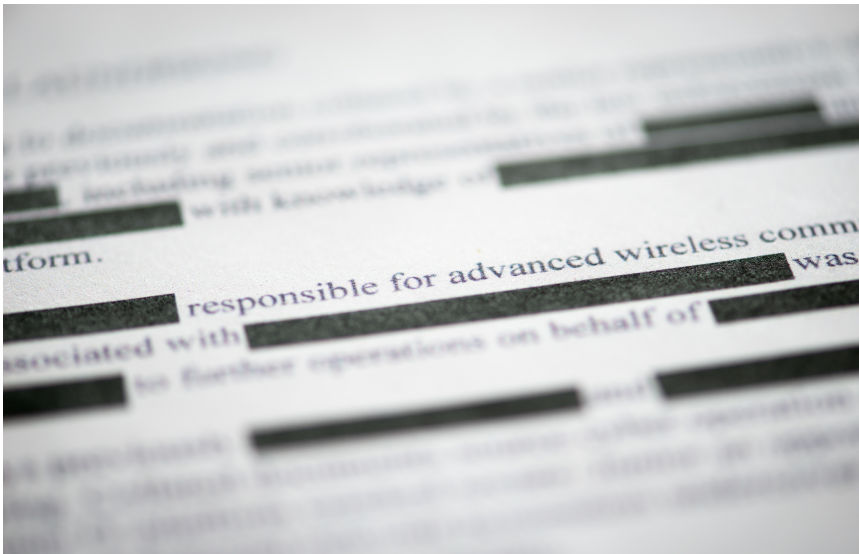
only the tax returns, credit history, credit reports, and credit scores provided to agencies. SB 968 was temporarily postponed on April 15th and retained on the Senate Special Order Calendar.

House Bill 619, Webster Barnaby (R-Orange City), passed the House 93 to 24. HB 619 exempts and makes confidential, in part, information received by the Office of Financial Regulation in an application for a de novo banking charter, such as personal identifying information – including the names – of a shareholder, subscriber, proposed officer, or proposed director of the applicant bank when such information has been marked by the applicant as confidential. The bill would make oversight of Florida-regulated banks more difficult; the public will have no way to know who was responsible when a bank fails or is involved in money laundering.

House Bill 1359, Chuck Brannan III (R-Lake City), exempts and makes confidential information received by the Department of Highway Safety and Motor Vehicles pursuant to investigations of the Department, 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 House unanimously passed the bill.

Senate Bill 402, Ray Rodrigues (R-Fort Myers), does away with the requirement that notices be placed only in newspapers with a periodicals permit from the post office; under certain circumstances; allows governmental notices to be published only on the newspaper's website if certain criteria are met. Under the bill, notices can be placed in papers that distribute at little as 1,000 print copies a week or a web site with at least 1,000 unique users per week – regardless of the size of the county. While this is an improvement from a prior version allowing publication in any publication in Florida, SB 402 still results in a decentralized publication of notices and a severe reduction in needed standards for newspapers carrying these notices. On Friday morning at 8 am, the Senate Appropriations Subcommittee on Criminal and Civil Justice approved the measure in a 5 to 3 vote.

On Friday morning, **Senate Bill 7066**, was unanimously approved by the Senate Rules committee. The bill would close meetings of the Public Service Commission that the Commission finds cannot be fully and fairly conducted without revealing information that has been made confidential by a prior order of the Commission or a claim of proprietary confidential business information has been filed. Closing meetings reduces oversight of the Commission. The public necessity statement for this bill asserts that revealing confidential business information could impair the ability of utilities regulated by the Commission to fairly negotiate with third parties and compete in the marketplace. Utilities in Florida are regulated monopolies – there is no competitive marketplace. This argument is meritless. The House companion, HB 1311, Bobby Payne (R-Palatka), was approved by the Commerce Committee in a vote of 16 to 1.



Senate Bill 7064 exempts and makes confidential all information received by the Department of Legal Affairs pursuant to a violation of SB 1764, 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 exempt and confidential. SB 7064 would make investigative information confidential, prohibiting the Department from releasing information during the course of an investigation. In addition, there are already exemptions for much of the information sought to be protected, from social security numbers to investigative information received by the Department. SB 7064 was on the Senate Calendar to be considered for Wednesday, but was temporarily postponed. The bill was retained on the Senate Calendar.

House Bill 7015 exempts and makes confidential information received by the Department of Legal Affairs pursuant to violations of the Technology Transparency Act. Like SB 7064, much of the information sought to be protected – personal information, investigative information – is exempt by other statutes. The House Judiciary committee unanimously passed HB 7015 on Thursday.

Senate Bill 1634, Jason Brodeur (R-Lake Mary), was unanimously approved by the Senate. The bill exempts and makes confidential certain information held by the Department related to shellfish processing facilities, audit records, and aquaculture production records.

Senate Bill 1048, Aaron Bean (R-Jacksonville), exempts reinvestigation information generated during a new investigation by a conviction integrity unit within a state attorney's office. The exemption applies for two years or during an active, ongoing, and good faith investigation of a claim of actual innocence and until the claim is no longer capable of further investigation. An amendment was filed to clarify that the exemption applies for two years or until a claim is no longer capable of further investigation, whichever is shorter. However, the amendment was withdrawn before consideration. SB 1048 was temporarily postponed and retained on the Senate Calendar.

House Bill 691, David Borrero (R-Miami), which exempts the home address, photographs, and other information of current and former staff and domestic violence centers, passed the House Health & Human Services committee unanimously, its third committee hearing. It heads to the entire House for approval.

Senate Bill 418, Danny Burgess (R-Zephyrhills), exempts information provided to an agency providing shelter, including the addresses and phone numbers of individuals seeking shelter during a storm or catastrophic event. On Friday morning, SB 418 unanimously passed the Senate Rules committee.

On Friday morning, **Senate Bill 1456**, Ray Rodrigues (R-Fort Myers), was unanimously approved by the Senate Rules committee. The bill expands the exemption for examination and assessment instruments for tests given to assess 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; educator certification requirements; and the Florida Partnership for Minority and Underrepresented Student Achievement. The bill also creates a new exemption for examinations administered by a Florida College System or State University or the Florida Department of Education.

House Bill 1541, Keith Truenow (D-Tavares), which imposes a noncriminal infraction, punishable by a fine not exceeding \$2,000, for unauthorized use or release of information in the Driver and Vehicle Information Database was unanimously approved by the House Judiciary committee.

House Bill 781, Will Robinson (R-Bradenton), was unanimously approved by the House State Affairs Committee. In part, HB 781 permits clerks of court to enter access agreements to permit certain individuals (attorneys, title insurers) to access otherwise exempt records. The bill applies only to certain property records. The First Amendment Foundation supports increasing access to records and allowing parties to enter agreements with clerks rather than going to court for a determination that the records should be released. However, this bill prioritizes certain professions; the general public and the press would not have the same ability to access records. There is no provision for access to the information for newsgathering purposes, research or public benefit. Title insurers and financial institutions can still seek the records by asking the person whose home address or name is exempt from public view to provide the information.

House Bill 1395, Tracie Davis (D-Jacksonville), exempts the name of certain lottery prize winners for 90 days. At the end of the 90 days, the name of winners becomes public. By releasing the name after 90 days, winners can take necessary safety precautions before public disclosure and the public can access the names of winners and detect any suspicious patterns of lottery winnings. The House State Affairs committee unanimously voted in favor of HB 1395.

House Bill 1639, Michael Grant (R-Port Charlotte), was unanimously approved by the House State Affairs committee. The bill exempts certain records held by a supervisor of elections that, if disclosed, would facilitate unauthorized access to data or unauthorized modification, disclosure, or destruction of information related to the security of election technologies.

Court Records



House Bill 525, Jackie Toledo (R-Tampa), exempts expunction petitions for offenses committed while a defendant was a victim of a human trafficking scheme, pursuant to HB 523. HB 525 unanimously passed the House.

House Bill 1193, Vance Arthur Aloupis (R-Miami), allows a tenant to ask a court to seal records of an eviction under certain circumstances, and House Bill 1195 creates a public records exemption for any sealed records. Both passed the House.

House Bill 1229, Jenna Persons-Mulicka (R-Fort Myers), was unanimously approved by the House Judiciary committee. The bill, which would be known as "Serena's Law," requires a county recorder or clerk of court to make known on a publicly available website the identity of an adult against whom an injunction for protection against domestic violence, sexual violence, or stalking is entered and the fact that a protective injunction has been entered against a respondent or defendant.

Open Government Sunset Review Update

House Bill 7037, House Government Operations subcommittee, reinstates exemption for financial information of private entity applicants to the State Infrastructure Bank (SIB). The public has a right to know how money from the SIB will be used and whether the requesting entity is financially sound and capable of taking on Department of Transportation projects. The bill was unanimously approved by the House.

House Bill 7003, House Government Operations subcommittee, exempts confidential proprietary business information provided to the Florida State Boxing Commission pursuant to an audit of the boxing promoter's business records. The House unanimously approved HB 7003. On Friday morning, the Senate Rule committee unanimously approved the Senate version, Senate Bill 7026.

House Bill 7007, House Government Operations subcommittee, saves from repeal exemption for information held by the Department of Agriculture and Consumer Services as part of a joint investigation with another state or federal agency. The House unanimously approved HB 7007. On Friday morning, the Senate companion, **Senate Bill 7036**, Senate Agriculture Committee, was unanimously approved by the Senate Rules Committee.

On Friday morning, the Senate Rules committee unanimously approved two other Open Government Sunset Review bills:

- **Senate Bill 7014**, Senate Banking and Insurance Committee, exempts proprietary business information contained in filings to the Office of Insurance Regulation.
- **Senate Bill 7050**, Senate Community Affairs, exempts unsolicited proposals received by a public entity.

