

**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.)

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Prepared By: The Professional Staff of the Banking and Insurance Committee

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BILL: SB 1862

INTRODUCER: Senator Negron

SUBJECT: Public Records/Donor Identifying Information/Division of Insurance Fraud

DATE: January 31, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	<b>Pre-meeting</b>
2.			GO	
3.				
4.				
5.				
6.				

**I. Summary:**

The bill creates a public records exemption for all identifying information of donors or prospective donors to the Automobile Insurance Fraud Strike Force a direct-support organization of the Division of Insurance Fraud.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.<sup>1</sup>

This bill amends the following section of the Florida Statutes: 626.9895

**II. Present Situation:**

**Public Records Law**

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. A bill enacting an exemption or substantially amending an

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<sup>1</sup> 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 newly created public record or public meeting exemption. The bill creates a new exemption; thus, it requires a two-thirds vote for final passage.

existing exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.<sup>2</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>3</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

#### **Insurance Fraud Strike Force**

Legislation proposed during the 2012 Legislative Session<sup>4</sup> creates the Automobile Insurance Fraud Strike Force a direct-support organization of the Division of Insurance Fraud. The strike force's sole purpose is to support the prosecution, investigation, and prevention of motor vehicle insurance fraud. The strike force is to be set up as a not-for-profit and shall be allowed to raise funds by requesting and receiving grants, gifts, and bequests of money.

### **III. Effect of Proposed Changes:**

The bill creates a public records exemption for all identifying information of donors or prospective donors to the Automobile Insurance Fraud Strike Force a direct-support organization of the Division of Insurance Fraud.

The bill sets forth legislative findings of public necessity as the exemption is viewed as an essential component for the program to attract and receive donations from private funds. These funds shall be specifically used to prosecute, investigate and prevent motor vehicle insurance fraud.

The bill takes effect on the date that SB 1860, or similar legislation adopted by the Legislature during the 2012 Regular Legislative Session and subsequently enacted into law, takes effect.

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<sup>2</sup> Section 24(c), Art. I of the State Constitution.

<sup>3</sup> Section 119.15, F.S.

<sup>4</sup> 2012 – SB 1860

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

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. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

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

None.

## B. Amendments:

None.