

Tab 1	SB 660 by DiCeglie ; (Similar to H 00273) Public Records/Animal Shelter or Animal Control Agency
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Tab 2	SPB 7026 by AG ; Public Records/Department of Agriculture and Consumer Services
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

AGRICULTURE
Senator Collins, Chair
Senator Boyd, Vice Chair

MEETING DATE: Wednesday, January 10, 2024
TIME: 8:30—10:00 a.m.
PLACE: 301 Senate Building

MEMBERS: Senator Collins, Chair; Senator Boyd, Vice Chair; Senators Baxley, Berman, Rouson, and Simon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 660 DiCeglie (Similar H 273)	Public Records/Animal Shelter or Animal Control Agency; Providing an exemption from public records requirements for records held by an animal shelter or animal control agency operated by a local government which contain certain information pertaining to persons with legal custody of an animal; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. AG 01/10/2024 Favorable CA RC	Favorable Yeas 6 Nays 0

Consideration of proposed bill:

2	SPB 7026	Public Records/Department of Agriculture and Consumer Services; Providing an exemption from public records requirements for certain information held by the Department of Agriculture and Consumer Services; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 Nays 1
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Other Related Meeting Documents

.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 Agriculture

BILL: SB 660

INTRODUCER: Senator DiCeglie

SUBJECT: Public Records/Animal Shelter or Animal Control Agency

DATE: January 10, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 660 provides an exemption from public records requirements for records containing certain information pertaining to persons with legal custody of an animal from an animal shelter or animal control agency operated by a local government. The bill provides a statement of public necessity.

The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

This act shall take effect July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy 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 related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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.²⁰

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires the Legislature to consider the following specific questions in such a review:²⁴

- 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?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Public or Private Animal Agencies Public Records

Currently, the records of a public animal shelter, humane organization, or animal control agency operated by a humane society must be made available to the public pursuant to provisions in chapter 119, F.S.²⁷ The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision, divided into species. These data must include dispositions by:

- Adoption;
- Reclamation by owner;
- Death in kennel;
- Euthanasia at the owner's request;
- Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision;
- Euthanasia;
- Released in field/Trapped, Neutered, Released (TNR);
- Lost in care/missing animals or records; and
- Ending inventory/shelter count at end of the last day of the month²⁸.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S.

²⁵ *See generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 823.15(2)(b), F.S.

²⁸ Section 823.15(2)(a)2., F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 823.15, F.S., to revise requirement language related to the adoption of animals and public records. The bill creates a public record exemption for the personal information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency. The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

Section 2 provides a statement of public necessity which is to shield those seeking to adopt and foster animals from the potential stalking, harassment and intimidation from the animals' previous owners. The bill also provides that the need to protect the personal information of those seeking to adopt and foster animals overrides the state's public policy of open government.

Section 3 provides that this act shall take effect July 1, 2024.

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 creates an exemption, thus, the bill requires 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 creates an exemption, thus, the bill require a two-thirds vote to be enacted.

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 exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

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 amends section 823.15 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.

By Senator DiCeglie

18-00276A-24

2024660__

A bill to be entitled

An act relating to public records; amending s. 823.15, F.S.; providing an exemption from public records requirements for records held by an animal shelter or animal control agency operated by a local government which contain certain information pertaining to persons with legal custody of an animal; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) is added to section 823.15, Florida Statutes, to read:

823.15 Public or private animal agencies; sterilization required for dogs and cats released; recordkeeping requirements; microchipping; public records exemption.-

(7) The personal identifying information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision in any record relating to the animal and held by the shelter or agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00276A-24

2024660__

Section 2. The Legislature finds that it is a public necessity that the personal identifying information of persons who foster, adopt, or otherwise receive legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision in any record relating to the animal and held by the shelter or agency be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that, as reflected in s. 823.15(1), Florida Statutes, it is an important public policy of the state to encourage the fostering, adoption, and transfer of animals and to reduce euthanasia rates for animals in animal shelters and animal control agencies. Although such shelters and agencies are motivated to find new homes or placements for animals in their custody, potential fosterers and adopters and other persons considering receiving legal custody of animals may become discouraged from fostering, adopting, or receiving legal custody of the animals if the prior owners who lost or surrendered legal custody of the animals, or who did not reclaim the animals within the applicable time periods, can obtain their personal identifying information and attempt to regain legal custody of the animals from such persons. The Legislature finds that the stalking, harassment, and intimidation of animal fosterers, adopters, and other persons receiving legal custody of animals by prior animal owners, as well as prior animal owners' theft of animals from such persons, are threats to public safety and welfare and to the sanctity of private property, the family, and the home. The Legislature further finds that the need to protect the personal identifying information of animal fosterers,

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00276A-24

2024660__

59 adopters, and other persons receiving legal custody of animals
60 is sufficiently compelling to override the state's public policy
61 of open government and that the protection of such information
62 cannot be accomplished without this exemption.

63 Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

11/01/24

Meeting Date

6660

Bill Number or Topic

Ag

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Diana Ferguson

Phone

850-681-6788

Address

119 S Monroe St #202

Email

dferguson@nrcdof-ecohia.com

Street

Talop

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FL Animal Control Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/10/24

Meeting Date

SB 660

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name Gerard O'Rourke

Phone 561-376-9859

Address _____

Email _____

Street

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Palm Beach County

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/10/24

Meeting Date

SB 660

Bill Number or Topic

AGRICULTURE

Committee

Amendment Barcode (if applicable)

Name JEN HOBGOOD

Phone 850 445 5245

Address 3548 CANGROVE ROAD

Street

Email jen.hobgood@aspcav.org

TALLAHASSEE

City

FL

State

32303

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

(ASPCA) AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/10/24

Meeting Date

SB660

Bill Number or Topic

Agriculture

Committee

Amendment Barcode (if applicable)

Name Gregg Weiss

Phone 561-355-2202

Address 301 S. Olive Ave

Street

Email gweiss@phcgov.org

West Palm Beach

City

FL

State

33401

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 5, 2023

Dear Chair Collins,

I respectfully request that **SB 660: Public Records/Animal Shelter or Animal Control Agency** be placed on the agenda of the Agriculture Committee at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

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 Agriculture

BILL: SPB 7026

INTRODUCER: Agriculture Committee

SUBJECT: DACS Public Records Exemption

DATE: January 10, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Burse</u>	<u>Becker</u>	<u>AG</u>	Favorable

I. Summary:

SPB 7026 provides an exemption from public records requirements for records containing certain information pertaining to the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program (program).

The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

The bill takes effect upon becoming a law.

II. Present Situation:

Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program

Following the devastation of Hurricane Idalia in 2023, the Florida legislature passed CS/HB 1-C to provide relief to those affected by the hurricane.¹ The law established the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program within the Department of Agriculture and Consumer Services (department) to make loans to agriculture and aquaculture producers that have experienced damage or destruction from a declared natural disaster. Loan funds may be used to restore, repair, or replace essential physical property or remove vegetative debris from essential physical property.²

Under the program, the department is authorized to make low-interest or interest-free loans of up to \$500,000 to eligible applicants.³ An approved applicant may receive no more than one loan per declared disaster, two loans per year in disaster loans, and five loans within any 3-year period. The term of each loan is 10 years.⁴

¹ Chapter 2023-349, Laws of Fl.; HB 1-C (2023).

² *Id.*

³ *Id.*

⁴ *Id.*

To be eligible an applicant must:

- Own or lease a bona fide farm operation that is located in a county named in a declared natural disaster that was damaged or destroyed as a result of such declared natural disaster; and
- Maintain complete and acceptable farm records, pursuant to criteria published by the department, and present them as proof of production levels and bona fide farm operations.⁵

The loan program expires on July 1, 2043, unless reviewed and saved from repeal by the Legislature.

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.⁶ The right to inspect or copy 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.⁷

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.⁸ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁹ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.¹⁰

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹¹ The Florida Supreme Court has interpreted the statutory definition

⁵ Section 570.822(3), F.S.

⁶ FLA. CONST. art. I, s. 24(a).

⁷ *Id.*

⁸ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, (2022-2024).

⁹ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

¹⁰ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

¹¹ Section 119.011(12), F.S., defines “public record” to mean “all 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.”

of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”¹²

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.¹³ A violation of the Public Records Act may result in civil or criminal liability.¹⁴

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁵ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁶

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;¹⁷
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁸ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.¹⁹

General exemptions from the public records requirements are contained in the Public Records Act.²⁰ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.²¹

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled

¹² *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹³ Section 119.07(1)(a), F.S.

¹⁴ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁵ FLA. CONST. art. I, s. 24(c).

¹⁶ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹⁷ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹⁸ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁹ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

²⁰ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

²¹ Section 119.15, F.S.

to disclose the record.²² Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.²³

Open Government Sunset Review Act

The Open Government Sunset Review Act²⁴ (the act) prescribes a legislative review process for newly created or substantially amended²⁵ public records or open meetings exemptions, with specified exceptions.²⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²⁷

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.²⁸

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

In examining an exemption, the act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption. The act requires specified questions to be considered during the review process.²⁹

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁰ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.³¹

²² An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

²³ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

²⁴ Section 119.15(3), F.S.

²⁵ Section 119.15(6)(b), F.S.

²⁶ Section 119.15(6)(b)1., F.S.

²⁷ Section 119.15(6)(b)2., F.S.

²⁸ Section 119.15(6)(b)3., F.S.

²⁹ 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?

³⁰ See *generally* s. 119.15, F.S.

³¹ Section 119.15(7), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 570.822, F.S., to revise language related to the Agriculture and Aquaculture Producers Natural Disaster Recovery Loan Program. The bill creates a public records exemption for the personal tax returns, credit history information, credit reports and credit scores. The bill does not prohibit the disclosure of information held by the department pursuant to its administration of the program in an aggregated and anonymized format. The public records exemption would stand repealed on October 2, 2029, unless it is reenacted by the Legislature under the Open Government Sunset Review Act.

Section 2 provides a statement of public necessity which is to shield the sensitive information of borrowers of the program from fraud and thieves. The bill also provides that the need to protect the sensitive information of those borrowing from the program outweighs the state's public policy of open government.

Section 3 provides that this act shall take effect 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 creates an exemption, thus, the bill requires 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 creates an exemption, thus, the bill require a two-thirds vote to be enacted.

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 exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

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 amends section 570.822 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.

FOR CONSIDERATION By the Committee on Agriculture

575-01897-24

20247026pb

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 570.822, F.S.; providing an exemption from public
 4 records requirements for certain information held by
 5 the Department of Agriculture and Consumer Services;
 6 providing that such information may be released in an
 7 aggregated and anonymized format; providing for future
 8 legislative review and repeal of the exemption;
 9 providing a statement of public necessity; providing
 10 an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Present subsections (8), (9), and (10) of
 15 section 570.822, Florida Statutes, are redesignated as
 16 subsections (9), (10), and (11), respectively, and a new
 17 subsection (8) is added to that section, to read:

18 570.822 Agriculture and Aquaculture Producers Natural
 19 Disaster Recovery Loan Program.—

20 (8) PUBLIC RECORDS EXEMPTION.—

21 (a) The following information held by the department
 22 pursuant to its administration of the program is exempt from s.
 23 119.07(1) and s. 24(a), Art. I of the State Constitution:

24 1. Tax returns.

25 2. Credit history information, credit reports, and credit
 26 scores.

27 (b) This subsection does not prohibit the disclosure of
 28 information held by the department pursuant to its
 29 administration of the program in an aggregated and anonymized

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

575-01897-24

20247026pb

30 format.

31 (c) This subsection is subject to the Open Government
 32 Sunset Review Act in accordance with s. 119.15 and shall stand
 33 repealed on October 2, 2029, unless reviewed and saved from
 34 repeal through reenactment by the Legislature.

35 Section 2. The Legislature finds that it is a public
 36 necessity that the tax returns and credit history information,
 37 credit reports, and credit scores held by the Department of
 38 Agriculture and Consumer Services pursuant to its administration
 39 of the Agriculture and Aquaculture Producers Natural Disaster
 40 Recovery Loan Program be made exempt from s. 119.07(1), Florida
 41 Statutes, and s. 24(a), Article I of the State Constitution. In
 42 order to assess the viability of loans, the department may
 43 obtain sensitive information about a borrower, including certain
 44 financial information. If released, the sensitive information
 45 could be used by fraudulent contractors, predatory lenders,
 46 thieves, or individuals seeking to impose on the borrower.
 47 Therefore, it is necessary that sensitive information held by
 48 the department pursuant to its administration of the program be
 49 protected to ensure that borrowers are not harassed,
 50 intimidated, or potentially defrauded. The Legislature finds the
 51 harm that may result from the release of such sensitive
 52 information outweighs the public benefit that may be derived
 53 from the disclosure of the information.

54 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
APPEARANCE RECORD

1/10/24

Meeting Date

7026

Bill Number or Topic

Agriculture

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Jim Spratt

Phone

850-228-1296

Address

119 S Monroe St

Street

Email

Jim@MagnoliaStrategies.com

Tallahassee

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

FL AG Coalition

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

1/10/24

Meeting Date

Agriculture

Committee

7026

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Tripp Hunter

Phone

850-408-6092

Address

119 S Monroe ST

Email

Tripp.Hunter@FFVA.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Fruit & Vegetable Assn.

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/10/2024
Meeting Date

The Florida Senate
APPEARANCE RECORD

7026

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Agriculture
Committee

Amendment Barcode (if applicable)

Name Isabelle Garbaino

Phone 407 412 4405

Address _____
Street

Email _____

City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FDACS

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 7026

Bill Number or Topic

1/10/24

Meeting Date

Ag

Committee

Amendment Barcode (if applicable)

Name

Andrew Walmsley

Phone

202-430-0188

Address

310 W College Ave

Email

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Farm Bureau

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/10/2024
Meeting Date

The Florida Senate APPEARANCE RECORD

7026

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Isabelle Garbaino

Phone 107 412 4105

Address
Street

Email

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

FDACS

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Agriculture Committee Judge:

Started: 1/10/2024 8:29:55 AM

Ends: 1/10/2024 8:43:45 AM

Length: 00:13:51

8:29:54 AM Chair Collins calls meeting to order
8:30:25 AM Roll call, quorum is present
8:30:31 AM Pledge of Allegiance
8:31:18 AM Tab 1, SB 660 Public Records/ Animal Shelter or Animal Control Agency by Senator DiCeglie
8:31:30 AM Chair Collins recognizes Senator DiCeglie to explain the bill
8:31:43 AM Senator DiCeglie explains the bill
8:32:05 AM Questions:
8:32:07 AM Senator Berman
8:32:41 AM Senator DiCeglie
8:33:59 AM Senator Berman
8:34:06 AM Senator DiCeglie
8:34:13 AM Senator Berman
8:34:18 AM Senator DiCeglie
8:34:20 AM Chair Collins recognizes public testimony:
8:35:06 AM Gregg Weiss, Palm Beach County Commission
8:36:33 AM Jen Hobgood, ASPCA waives in support
8:36:46 AM Gerard O'Rourke, Palm Beach County, waives in support
8:37:09 AM Diana Rignson, FL Animal Control Association, waives in support
8:37:53 AM Debate:
8:37:56 AM Senator Berman
8:38:00 AM Senator DiCeglie
8:38:21 AM Roll call
8:38:30 AM Chair Collins passes the chair to Vice Chair Boyd
8:38:37 AM Tab 2, SPB 7026 Public Records/ Department of Agriculture and Consumer Services by Agriculture
8:39:20 AM Senator Collins explains the bill
8:39:28 AM Questions:
8:39:31 AM Senator Berman
8:40:01 AM Isabelle Giarbanno, FDACS
8:40:18 AM Senator Berman
8:40:41 AM Isabelle Giarbanno
8:41:17 AM Jim Spratt, FL Agriculture Coalition
8:41:56 AM Andrew Walmsley, FL Farm Bureau, waives in support
8:42:26 AM Tripp Hunter, FL Fruit and Vegetable Assn. waives in support
8:42:47 AM Debate:
8:42:54 AM Senator Berman
8:43:00 AM Roll call
8:43:10 AM Vice Chair passes the chair back to Chair Collins
8:43:21 AM Senator Simon moves to adjourn
8:43:35 AM Meeting adjourned