

Tab 1	SPB 7006 by RI ; OGSR/Florida Public Service Commission
Tab 2	SPB 7008 by RI ; OGSR/Florida Gaming Control Commission

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES

Senator Bradley, Chair
Senator Pizzo, Vice Chair

MEETING DATE: Tuesday, November 18, 2025

TIME: 1:00—3:00 p.m.

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Bradley, Chair; Senator Pizzo, Vice Chair; Senators Bernard, Boyd, Bracy Davis, Brodeur, Burgess, Calatayud, and Mayfield

TAB		BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:				
1	SPB 7006		OGSR/Florida Public Service Commission; Deleting the scheduled repeal of an exemption from public meeting requirements for portions of a hearing before the Florida Public Service Commission wherein certain proprietary confidential business information is discussed, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
Consideration of proposed bill:				
2	SPB 7008		OGSR/Florida Gaming Control Commission; Amending a provision which provides an exemption from public records and public meeting requirements for exempt or confidential and exempt information obtained by the Florida Gaming Control Commission; deleting the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
3	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 Regulated Industries

BILL: SPB 7006

INTRODUCER: Regulated Industries Committee

SUBJECT: OGSR/Florida Public Service Commission

DATE: November 18, 2025 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schrader	Imhof		Submitted as Comm. Bill/Fav

I. Summary:

SPB 7006 saves from repeal the current public meeting and records exemptions for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), F.S., pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., is discussed. The subsection provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meetings must be recorded and transcribed. However, such recording and transcripts are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemptions are required to allow the PSC to close portions of its meetings where confidential business information is discussed. They allow the PSC to continue its specialized role of fact-finding and making decisions in the public interest in utility regulatory matters where the primary aspects of a matter are so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it would otherwise have to refer such matters to the Florida Division of Administrative Hearings in order to conduct a full and fair hearing. Such a circumstance would be in contrast to the PSC's practice of generally conducting all utility regulatory proceedings within its jurisdiction itself.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption 5 years after enactment. These exemptions are scheduled to repeal on October 2, 2026. The bill removes the scheduled repeals to continue the exempt status.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This 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 that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll 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.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. See, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

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

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ *See, e.g.*, s. 119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.³² The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.³³ In order to do so, the PSC exercises authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.³⁴

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Id.*

³¹ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

³² Section 350.001, F.S.

³³ See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Nov. 14, 2025).

³⁴ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Nov. 14, 2025).

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid³⁵ and may order the addition or repair of infrastructure as necessary.³⁶ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities³⁷ (defined as “public utilities” under ch. 366, F.S.).³⁸ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.³⁹ Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative’s membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state’s electric utility customers.⁴⁰ Florida also has 27 municipally-owned gas utilities and four special gas districts.⁴¹

Rural Electric Cooperatives in Florida

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.⁴² These cooperatives operate in 57 of Florida’s 67 counties and have more than 2.7 million customers.⁴³ Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida’s total electric utility customers, but their service territory covers 60 percent of Florida’s total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative’s membership.⁴⁴

³⁵ Section 366.04(5) and (6), F.S.

³⁶ Section 366.05(1) and (8), F.S.

³⁷ Section 366.05, F.S.

³⁸ Section 366.02(8), F.S.

³⁹ Florida Public Service Commission, *About the PSC*, *supra* note 34.

⁴⁰ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Nov. 14, 2025).

⁴¹ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, pg. 14, Apr. 2025 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202025.pdf>). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

⁴² Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Nov. 14, 2025).

⁴³ Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Nov. 14, 2025).

⁴⁴ *Id.*

Public Electric and Gas Utilities in Florida

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).⁴⁵ In addition, there are five investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, FPUC, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company. Of these five gas IOUs, four engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, Peoples Gas System, and St. Joe Natural Gas Company. Sebring Gas System is only engaged in firm transportation service.⁴⁶

Electric IOU and Gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.⁴⁷ If a utility believes it is earning below a reasonable level, it can petition the PSC for a change in rates.⁴⁸

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.⁴⁹

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2024, the PSC had jurisdiction over 153 investor-owned water and/or wastewater utilities in 40 of Florida's 67 counties.⁵⁰

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation," and others.⁵¹ The PSC

⁴⁵ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

⁴⁶ *Id.* at 15. Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. *See* Firm transportation service, 18 CFR s. 284.7.

⁴⁷ PSC, *2024 Annual Report*, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2024.pdf>) (last visited Nov. 11, 2025).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

⁵¹ Section 367.022, F.S.

also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

Municipal Water and Sewer Utilities in Florida

A municipality⁵² may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.⁵³

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

PSC Public Records Exemptions

Section 350.121, F.S., protects from public disclosure records, documents, papers, maps, books, tapes, photographs, files, sound recordings, or other business material, regardless of form or characteristics obtained by the PSC through an inquiry. Much material is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

In addition, ss. 364.183, 366.093, 367.156, and 368.108, F.S., provide processes for communications services, public utilities, water and wastewater utilities, and gas transmission and distribution companies, respectively, to protect proprietary confidential business information from public disclosure, provided pursuant to discovery in a PSC docket or proceeding. Such proprietary confidential business information is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,⁵⁴ with specified exceptions.⁵⁵ The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset

⁵² Defined by s. 180.01, F.S., "as any city, town, or village duly incorporated under the laws of the state."

⁵³ Section 180.02, F.S., *see also* s. 180.06, F.S.

⁵⁴ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

⁵⁵ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

date.⁵⁶ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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.⁵⁷ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program and administration would be significantly impaired without the exemption;⁵⁸
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁵⁹ or
- It protects trade or business secrets.⁶⁰

The act also requires specified questions to be considered during the review process.⁶¹ In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁶² If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁶³

Closure of PSC Meetings

In addition to the above, in 2021, the Legislature created a public meeting exemption in s. 350.01(9), F.S., to protect those portions of a PSC meeting where portions of a hearing conducted by the PSC wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., are discussed. The subsection provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meeting must be recorded and transcribed. However,

⁵⁶ Section 119.15(3), F.S.

⁵⁷ Section 119.15(6)(b), F.S.

⁵⁸ Section 119.15(6)(b)1., F.S.

⁵⁹ Section 119.15(6)(b)2., F.S.

⁶⁰ Section 119.15(6)(b)3., F.S.

⁶¹ 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?

⁶² FLA. CONST. art. I, s. 24(c).

⁶³ Section 119.15(7), F.S.

such recording and transcripts are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, unless a court of competent jurisdiction, after an in-camera review, determines that the hearing was not specifically restricted to the discussion of proprietary confidential business information made confidential and exempt pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S. In which case, the previously protected portions of the meeting which revealed non-exempt information may be disclosed by the PSC.

Section 350.01(8), F.S., requires that, without exception, every meeting, workshop, hearing, or other proceeding attended by two or more PSC commissioners, and each such meeting, workshop, hearing, or other proceeding where a decision that concerns the rights or obligations of any person is made by the PSC, must be streamed live on the Internet. In addition, a recorded copy of the meeting, workshop, hearing, or proceeding must be available on the PSC's website.

This requirement, prior to the passage of the public meeting exemption under review here, presented difficulty for the PSC, and parties practicing before it, when confidential information must be discussed or argued during a PSC proceeding. According to the PSC, it “established practices and procedures that have allowed hearings to be conducted in a manner that complies with the Sunshine Law and protects confidential information from disclosure.”⁶⁴ For most such hearings “the confidential material has been a relatively minor portion of any particular issue, and the parties have worked around public disclosure by stipulating to certain matters and keeping discussions of confidential matters...minimal and without mention of critical details.”⁶⁵ However, prior to the enactment of s. 350.01(9), F.S., the PSC was faced with a proceeding “where fact-finding on one or more issues was so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it could not afford the parties a full and fair hearing in the public and also protect the sensitive confidential information.” In order to properly conduct the proceeding, the PSC had to refer the docket to Florida's Division of Administrative Hearings (DOAH) since Florida's Sunshine Law did not apply at DOAH and the proceeding could be closed to the public.⁶⁶ This was a departure from the PSC's usual process where it generally conducts its own proceedings using its “specialized knowledge and expertise” as a fact finder.⁶⁷

By referring the matter to DOAH, the PSC had to give up its typical role as a fact-finder, as the DOAH administrative law judge (ALJ) becomes the fact-finder with the “sole authority to weigh the evidence and credibility of witnesses,”⁶⁸ instead of the PSC. The PSC's role is reduced to considering a Recommended Order issued by the ALJ with limited ability to revise the factual findings of the ALJ.⁶⁹ This prevented the PSC from relying upon its typical role as an arm of the

⁶⁴ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., Aug. 4, 2025 (on file with the Regulated Industries Committee).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Citizens of State v. Fay*, 396 So. 3d 549, 554–55 (Fla. 2024).

⁶⁸ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and *see* ss. 120.569 and 120.57, F.S.

⁶⁹ Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and s. 120.57(1)(l), F.S., which states, in part, that an agency may not reject or modify an ALJ's finding of fact in a recommended order unless it finds “that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.”

legislative branch⁷⁰ with a broad grant of legislative authority over regulated utilities and limited the PSC from fully utilizing its considerable and specialized expertise in utility regulation and to make decisions in the public interest.⁷¹

Open Government Sunset Review Findings and Recommendations

The staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee⁷² jointly developed a survey requesting that the Florida Public Service Commission provide feedback on the public meeting and records exception in s. 350.01(9), F.S.

In addition, the Senate Committee on Regulated Industries staff sent additional surveys to Florida's Office of Public Counsel and selected representatives from Florida's public electric and gas utility and water and wastewater utility industries.

Staff of the Senate Committee on Regulated Industries received a total of seven responses to this survey. All of these responses indicated that the exemption should be reenacted "as is."

III. Effect of Proposed Changes:

Section 1 amends s. 350.01(9), F.S. to remove the scheduled repeal date—which is October 2, 2026—of the current public meeting and records exemption for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., are discussed. The subsection provides that such exempt portions of a meeting may not be off the record and the exempt portions of such meeting must be recorded and transcribed. However, such recording and transcripts are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the Constitution. The amendment would thereby continue this public meeting and record exemption.

Section 2 provides that the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

⁷⁰ Section 350.001, F.S.

⁷¹ See *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), *Citizens of State v. Pub. Serv. Com'n*, 425 So. 2d 534, 540 (Fla. 1982), *Gulf Coast Elec. Co-op., Inc. v. Johnson*, 727 So. 2d 259, 262 (Fla. 1999), and *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), for examples of such authority and citations to the PSC's expertise.

⁷² Renamed the Government Operations Subcommittee by House Rule 7.1(a)(8)a.

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 or public meetings requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

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 continues a current public records and public meetings exemption without expansion.

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 purpose of the law is to protect regulated utilities' confidential business information from disclosure at PSC hearings. This bill exempts only those portions of records and meetings that contain relevant information and therefore does not appear to be broader than necessary to accomplish the purposes 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 substantially amends s. 350.01(9), F.S. 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION BY the Committee on Regulated Industries

580-00913-26

A bill to be entitled

20267006pb

An act relating to a review under the Open Government Sunset Review Act; amending s. 350.01, F.S.; deleting the scheduled repeal of an exemption from public meeting requirements for portions of a hearing before the Florida Public Service Commission wherein certain proprietary confidential business information is discussed; providing an effective date.

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

Section 1. Subsection (9) of section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—

(9) Notwithstanding the provisions of subsection (8), those portions of a hearing conducted by the commission wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108, is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. No exempt portion of a hearing may be off the record, and all exempt portions shall be recorded and transcribed. Such recordings and transcripts are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless a court of competent jurisdiction, after an in camera review, determines that the hearing was not restricted to the discussion of proprietary confidential business

580-00913-26

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information made confidential and exempt pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108. In the event of such a judicial determination, only that portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect upon becoming a law.

Florida Public Service Commission
Open Government Sunset Review Questionnaire
(Public Meetings regarding Confidential and Exempt Proprietary Confidential Business Information
Discussed by the Florida Public Service Commission)
July 17, 2025

The staff of the Senate Regulated Industries Committee and the House of Representatives Government Operations Subcommittee are conducting a review of section 350.01(9), Florida Statutes, pursuant the Open Government Sunset Review Act, section 119.15, Florida Statutes (act).

In 2021, chapter 2021-72, Laws of Florida, the Legislature provided that those portions of any hearing conducted by the Florida Public Service Commission at which confidential and exempt proprietary confidential business information as provided in ss. 364.183, 366.093, 367.156, and 368.108, F.S. are discussed is exempt from s. 286.011, F.S. and s. 24(b), Art. I, of the Florida Constitution. No exempt portions of the meeting may be off the record and all exempt portions are required to be recorded and transcribed. The recordings and transcripts are confidential and exempt from s. 119.07(1), F.S., and s. 24(a) of Art. I, of the Florida Constitution, unless a court of competent jurisdiction, after an in camera review, determines that the hearing was not restricted to the discussion of the proprietary confidential business information. In this case only the portion of the non-exempt recording or transcript may be disclosed.

The public meeting exemptions stand repealed on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

To assist committee staff as part of their review of these exemptions, please complete this questionnaire. A copy of s. 350.01(9), F.S., is attached for your convenience.

Florida Public Service Commission

Name and Title of Person Completing the Questionnaire:

Telephone Number of Person Completing the Questionnaire:

E-mail Address of Person Completing the Questionnaire:

1. Does the commission have hearings in which any of the confidential and exempt information is discussed?

The Commission regularly conducts hearings where proprietary confidential business information is either at issue or becomes a part of the evidentiary record. Our practice is to make every attempt to avoid closing the hearing when proprietary confidential business information becomes the focus. Since the exemption in subsection (9) was enacted, we have managed to keep our hearings open by asking questions in such a way as to prevent disclosure of confidential information so that the hearing can be conducted in the sunshine.

2. What types of hearings or meetings held by the commission are affected by the exemptions?

Potentially, any hearing where confidential information is at issue could be affected by the exemption. As discussed in the response above, we have not found it necessary to rely on the exemption since it was enacted.

3. Has the commission received any requests for a recording or transcript for an affected hearing or meeting? If “yes,” please discuss how these requests were handled.

There have been no closed hearings and we have received no requests.

4. Have there been any issues with the implementation of the exemption or negative feedback regarding the exemption or its implementation from litigants appearing before the commission?

The Commission has had no issues and we have received no negative feedback.

5. Is the commission aware of any ongoing litigation, existing case law, administrative orders, or Attorney General opinions involving the public meeting exemptions? If “yes,” please provide the appropriate citation(s).

There has been no litigation concerning the exemption in Section 350.01(9), F.S.

6. Does any other Florida or federal law protect the meetings described in the exemptions? If “yes,”:

No.

- a. Please provide the specific Florida or federal citation for each exemption.
 - b. Please explain which exemption(s) your agency relies upon when closing a public meeting.
 - c. In your agency’s opinion, could the public meeting exemptions under review be merged with any other exemption(s)?
7. Which of the following actions does the commission recommend the Legislature take (please select one):
 - ☐ Repeal the public meeting exemptions
 - ☒ Reenact the public meeting exemptions as is
 - ☐ Reenact the public meeting exemptions with changes (if selected, please explain)
 8. Please provide any additional comments the commission may have regarding the public meeting exemptions.

The Commission was created by the Legislature, as a legislative entity, to ensure utilities provide essential services (electricity, natural gas, and water and wastewater) in a safe and reliable manner to Floridians. The rates charged for service provided by the investor-owned utilities are determined by the Commission and must be fair, just and reasonable. The Commission possesses extensive knowledge of the unique legal and policy considerations applicable to Florida’s regulated utilities and their ratepayers. The Commission employs this expertise when it conducts a hearing, acts as the fact-finder, and is afforded the opportunity to critically analyze all information, question witnesses, and independently weigh the evidence. Unlike other agencies, the Commission has historically conducted all of its own hearings. Virtually all of these hearings involve some amount of confidential information that is exempted by statute from public disclosure.

The Commission has established practices and procedures that have allowed hearings to be conducted in a manner that complies with the Sunshine Law and protects confidential information from disclosure. In those hearings, the confidential material has been a relatively minor portion of any particular issue, and the parties have worked around public disclosure by stipulating to certain matters and keeping discussions of confidential matters – which generally occurs during cross examination – minimal and without mention of critical details. However, prior to the enactment of s. 350.01(9), F.S., the Commission was faced with a docket where fact-finding on one or more issues was so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it could not afford the parties a full and fair hearing in the public and also protect the sensitive confidential information. The Commission referred the docket to the Division of Administrative Hearings.

At DOAH, the Sunshine Law does not apply and a hearing may be closed to the public. All information can be presented to an Administrative Law Judge in a closed hearing, can be fully explored by all parties through cross-examination, and will remain confidential. This process protects discussions of the information but eliminates an important function of the Commission. Because the Administrative Law Judge conducts the hearing and becomes the fact-finder with sole authority to weigh the evidence and credibility of witnesses, the Commission cannot use its expertise and experience to ensure all issues are fully vetted and weighed. Instead of acting as a policy body and implementing its legislative mandates, the Commission is limited to considering a Recommended Order from the Administrative Law Judge under very restrictive administrative law standards.

Thus, in DOAH proceedings, the Commission cannot rely on its “specialized knowledge and expertise” as the fact finder. *Florida Rising, Inc. v. Florida Public Service Commission*, No. SC2024-0485, 2025 WL 1969808, at *3 (Fla. July 17, 2025). When fact finding, a DOAH Administrative Law Judge cannot make policy judgement under the same broad grant of legislative authority as the Commission. *Id.* The exemption in s. 350.01(9) allows the Commission to conduct its own hearings as intended by the Legislature, and rely on its expertise to make informed, record based policy judgments.

The Commission cannot predict when the next docket will be filed where an exemption may be necessary. But given today’s environment, there is a strong chance that there could be another case on the horizon where the Commission would be better able to meet its Legislative mandate by closing the hearing. The rapid changes in technology and engineering, often driven by 3rd parties with significant proprietary business information concerns, often impact Commission proceedings. Security issues, such as cyber security and utility plant operations and security, especially for nuclear facilities, could create disputed issues that could not be handled without closing the hearing. Maintaining the exemption would allow the Commission to conduct the hearing itself, instead of sending the matter to DOAH.

Thus, the legislative findings in the Statement of Public Necessity in Section 2 of CS/HB 1311 are still accurate and relevant today. “Under certain circumstances, the commission must be able to evaluate and discuss proprietary confidential business information in order to make a determination in the public interest.” Ch. 2021-72, Section 2, Laws of Florida.

2024 Florida Statutes

EXEMPTION UNDER REVIEW

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—

(1) The Florida Public Service Commission shall consist of five commissioners appointed pursuant to s. 350.031.

(2)(a) Each commissioner serving on July 1, 1978, shall be permitted to remain in office until the completion of his or her current term. Upon the expiration of the term, a successor shall be appointed in the manner prescribed by s.350.031 for a 4-year term, except that the terms of the initial members appointed under this act shall be as follows:

1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter; and

2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.

(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031 for 4-year terms beginning the first Tuesday after the first Monday in January, 1979, and successors shall be appointed for 4-year terms thereafter with each term beginning on January 2 of the year the term commences and ending 4 years later on January 1.

(c) Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as original appointments to the commission.

(3) Any person serving on the commission who seeks to be appointed or reappointed shall file with the nominating council no later than June 1 prior to the year in which his or her term expires a statement that he or she desires to serve an additional term. A commissioner appointed after July 1, 2015, may not serve more than three consecutive terms.

(4) One member of the commission shall be elected by majority vote to serve as chair for a term of 2 years, beginning on January 2 of the first year of the term. A member may not serve two consecutive terms as chair.

(5) The primary duty of the chair is to serve as chief administrative officer of the commission; however, the chair may participate in any proceedings pending before the commission when administrative duties and time permit. In order to distribute the workload and expedite the commission's calendar, the chair, in addition to other administrative duties, has authority to assign the various proceedings pending before the commission requiring hearings to two or more commissioners or to the commission's staff of hearing examiners under the supervision of the office of general counsel. Only those commissioners assigned to a proceeding requiring hearings are entitled to participate in the final decision of the commission as to that proceeding; provided, if only two commissioners are assigned to a proceeding requiring hearings and cannot agree on a final decision, the chair shall cast the deciding vote for final disposition of the proceeding. If more than two commissioners are assigned to any proceeding, a majority of the members assigned shall constitute a quorum and a majority vote of the members assigned shall be essential to final commission disposition of those proceedings requiring actual participation by the commissioners. If a commissioner becomes unavailable after assignment to a particular proceeding, the chair shall assign a substitute commissioner. In those proceedings assigned to a hearing examiner, following the conclusion of the hearings, the designated hearing examiner is responsible for preparing recommendations for final disposition by a majority vote of the commission. A

petition for reconsideration shall be voted upon by those commissioners participating in the final disposition of the proceeding.

(6) A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial.

(7) This section does not prohibit a commissioner, designated by the chair, from conducting a hearing as provided under ss. 120.569 and 120.57(1) and the rules of the commission adopted pursuant thereto.

(8) Each meeting, including each internal affairs meeting, workshop, hearing, or other proceeding attended by two or more commissioners, and each such meeting, workshop, hearing, or other proceeding where a decision that concerns the rights or obligations of any person is made, shall streamed live on the Internet, and a recorded copy of the meeting, workshop, hearing, or proceeding shall be made available on the commission's website.

(9) Notwithstanding the provisions of subsection (8), those portions of a hearing conducted by the commission wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108, is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. No exempt portion of a hearing may be off the record, and all exempt portions shall be recorded and transcribed. Such recordings and transcripts are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless a court of competent jurisdiction, after an in camera review, determines that the hearing was not restricted to the discussion of proprietary confidential business information made confidential and exempt pursuant to s. 364.183, s. 366.093, s. 367.156, or s. 368.108. In the event of such a judicial determination, only that portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 4549, 1897; s. 1, ch. 4700, 1899; GS 2882; s. 10, ch. 7838, 1919; RGS 4607; CGL 6692; s. 1, ch. 63-279; s. 1, ch. 65-52; s. 2, ch. 78-426; s. 211, ch. 81-259; s. 2, ch. 81-318; s. 28, ch. 85-81; s. 6, ch. 87-50; s. 56, ch. 95-143; s. 528, ch. 95-148; s. 89, ch. 96-410; s. 1, ch. 2006-214; s. 31, ch. 2008-227; s. 1, ch. 2015-129; s. 1, ch. 2021-72.

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 Regulated Industries

BILL: SPB 7008

INTRODUCER: Regulated Industries Committee

SUBJECT: OGSR/Florida Gaming Control Commission

DATE: November 18, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Baird	Imhof		SUBMITTED AS COMM. BILL/FAV

I. Summary:

SPB 7008 extends the current public record and meeting exemption for exempt or confidential and exempt information held by the Florida Gaming Control Commission by removing the scheduled repeal date.

Under the Open Government Sunset Review Act (OGSR), the Legislature is required to review each public record and public meeting exemption 5 years after enactment.

These exemptions are scheduled to be repealed on October 2, 2026, if the bill does not become law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This 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 that relate to public records are found in various statutes and rules, depending on the branch of government involved.³ For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Chapter 119, F.S., does not apply to legislative or judicial records. See, *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

branch records.⁴ Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a]ll 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.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released

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

⁵ Section 119.01(1), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

General exemptions from the public records requirements are typically contained in the Public Records Act.¹⁶ Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.¹⁷

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.¹⁸ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁹ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁰

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²¹ or the “Sunshine Law,”²² requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.²³ The board or commission must provide the public reasonable notice of such meetings.²⁴ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁵ Minutes of a public meeting must be promptly recorded and open to public inspection.²⁶ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁷ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁸

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ *See, e.g.*, s.119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

¹⁷ *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

¹⁸ FLA. CONST., art. I, s. 24(b).

¹⁹ *Id.*

²⁰ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²¹ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²² *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²³ Section 286.011(1)-(2), F.S.

²⁴ *Id.*

²⁵ Section 286.011(6), F.S.

²⁶ Section 286.011(2), F.S.

²⁷ Section 286.011(1), F.S.

²⁸ Section 286.011(3), F.S.

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁹ The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.³⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³¹

Florida Gaming Control Commission

In 2021, the Florida Legislature created the Florida Gaming Control Commission (FGCC) to regulate gaming activities throughout the state.³² The FGCC is a five-member independent regulatory body.³³

The FGCC is authorized to exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the federal Indian Gaming Regulatory Act, 24 U.S.C. s. 2701 et seq. and any other forms of gambling authorized by the State Constitution or law, excluding the Lottery games authorized by section 15 of Article X of the State Constitution and ch. 24, F.S.

The FGCC is housed within the Department of Legal Affairs, but is a separate budget entity and serves as the agency head. It is not subject to the control, supervision, or direction of the Department of Legal Affairs or the Attorney General.³⁴

The FGCC is also authorized to:

- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the FGCC's regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit

²⁹ FLA. CONST., art. I, s. 24(c).

³⁰ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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.

³¹ *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it.

³² Section 16.712, F.S.

³³ FGCC members are appointed by the Governor and subject to confirmation by the Senate for a 4 year term: One member must have at least 10 years of experience in law enforcement and criminal investigations, one must be a certified public accountant with at least 10 years of experience in accounting and auditing, and one must be an attorney admitted to the Florida Bar for at least the preceding 10 years. *See* s. 16.71(2), F.S.

³⁴ Section 16.71, F.S.

underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.

- Evaluate, as the state compliance agency, information that is reported by sports governing bodies or other parties to the FGCC relating to:
 - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
 - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing, suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
 - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the FGCC.
- Review the regulation of licensees, permitholders, or persons regulated by the FGCC and the procedures used by the FGCC to implement and enforce the law.
- Review the procedures of the FGCC which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S. (Slot Machines), or ch. 849, F.S. (Gambling), to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement these provisions.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,³⁵ with specified exceptions.³⁶ The act requires the repeal of such

³⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

³⁶ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

exemption on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.³⁷ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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.³⁸ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program and administration would be significantly impaired without the exemption;³⁹
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁴⁰ or
- It protects trade or business secrets.⁴¹

The act also requires specified questions to be considered during the review process.⁴² In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.⁴³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁴⁴

³⁷ Section 119.15(3), F.S.

³⁸ Section 119.15(6)(b), F.S.

³⁹ Section 119.15(6)(b)1., F.S.

⁴⁰ Section 119.15(6)(b)2., F.S.

⁴¹ Section 119.15(6)(b)3., F.S.

⁴² 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?

⁴³ FLA. CONST. art. I, s. 24(c).

⁴⁴ Section 119.15(7), F.S.

Public Record and Meeting Exemption Under Review

In 2021, the Legislature created a public record exemption for exempt or confidential and exempt⁴⁵ information obtained by the FGCC.⁴⁶ Such information may be released by the FGCC, upon written request, to another agency or governmental entity in the performance of the FGCC's official duties and responsibilities. Any agency or governmental entity receiving such information must maintain its exempt or confidential and exempt status to keep information shielded from regular public records laws.⁴⁷

The FGCC typically holds monthly public meetings where notice is posted on their website at <https://flgaming.gov/meetings/>. At the FGCC meetings, if there is a portion of a meeting that would reveal the exempt or confidential and exempt information, then the FGCC chair must publicly announce the necessity for closing the meeting before closure.⁴⁸ The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the FGCC.⁴⁹ The portion of the meeting that is closed must be preserved as a public record and include all discussion and proceedings, and the names of all persons present.⁵⁰ Those records from the closed portion of a meeting are confidential and exempt until such time as the information is no longer exempt or confidential and exempt.⁵¹

The 2021 public necessity statement provided that:⁵²

In the absence of this public records [and meetings] exemption, sensitive confidential or exempt information, including criminal intelligence information and criminal investigative information, would be disclosed, thus eliminating the protected status of the information obtained by the commission. If the commission is unable to maintain the exempt or confidential and exempt status of the information received, the commission would be unable to effectively and efficiently perform its duties and responsibilities.⁵³

⁴⁵ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04-09 (2004).

⁴⁶ Section 16.716, F.S.

⁴⁷ Section 16.716(1)(a), F.S.

⁴⁸ Section 16.716(1)(b)1.a., F.S.

⁴⁹ Section 16.716(1)(b)1.b., F.S.

⁵⁰ Section 16.716(1)(b)1.c., F.S.

⁵¹ Section 16.716(1)(b)3., F.S.

⁵² FLA. CONST. art. I, s. 24(c), requires each public record and meeting exemption to "state with specificity the public necessity justifying the exemption."

⁵³ Ch. 2021-270, Laws of Fla. (creating s. 16.716, F.S., effective May 25, 2021).

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2026, unless reenacted by the Legislature.

Open Government Sunset Review of the Public Records and Open Meeting Exemptions for the Florida Gaming Control Commission

During the 2025 interim, the staff of the Senate Regulated Industries Committee and the House Government Operations Subcommittee met jointly with the staff of the FGCC regarding the exemptions under review. The FGCC staff also completed the Senate committee questionnaire concerning the exemptions under review.⁵⁴

Public Record Exemption Findings

The FGCC indicated that the public record exemption affected non-sworn commission investigators, law enforcement, including Division of Gaming Enforcement personnel, criminal organizations, permitholders and licensees, news media, and the public. The types of records that were protected include: criminal intelligence information and criminal investigative information obtained by non-sworn commission investigators (*see, e.g. s. 550.0251(9), F. S., information designated as a trade secret*).⁵⁵

The FGCC also indicated that the protected record information under s. 16.716, F.S., could not be protected any other way and recommended that the exemption should be reenacted in its current form.⁵⁶

Public Meeting Exemption Findings

The FGCC indicated that when the commission exercises its executive and regulatory powers delegated under s. 16.712, F.S., the commissioners may be required to review and discuss information that is exempt from public disclosure under ch. 119, F.S., including criminal and administrative investigative information and information designated as a trade secret.⁵⁷

The FGCC also noted that except for s. 16.716, F.S., there are no other provisions to shield criminal intelligence information, criminal investigative information, investigative information collected by non-sworn investigators, and information designated as a trade secret from been disclosed during the public meetings of the commission. The FGCC further explained that s. 286.011, F.S., standing alone, does not allow the commission to close portions of public meetings solely because exempt information is to be discussed. Section 286.011, F.S., only references certain forms of litigation as a sufficient basis to close a public meeting.⁵⁸

The FGCC staff recommended that the exemption be reenacted in its current form.⁵⁹

⁵⁴ *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on August 4, 2025, by Mr. Ross Marshman, Acting Executive Director, on behalf of the Florida Gaming Control Commission (on file with Senate Committee on Regulated Industries).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* See also s. 286.011(8), F.S., regarding pending litigation.

⁵⁹ *Id.*

Representatives from the gaming and pari-mutuel industries were also sent the questionnaire, yielding a single response recommending to reenact the public meeting exemption.⁶⁰

III. Effect of Proposed Changes:

Section 1 amends s. 16.716, F.S., to remove the scheduled repeal date to preserve the current public record and meeting exemption for exempt or confidential and exempt information obtained by the FGCC.

Section 2 provides that the bill is effective 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 does expand an exemption; thus, the bill does require 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 does expand an exemption; thus, a statement of public necessity is required.

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 exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

⁶⁰ See *Open Government Sunset Review Questionnaire*, completed and submitted to the Senate Committee on Regulated Industries staff on September 29, 2025, by Mr. Gary Rutledge, Attorney, on behalf of clients : 831 Federal Highway Acquisition d/b/a/ The Big Easy Casino, St. Petersburg Kennel Club (Derby Lane), Sarasota Kennel Club, Fronton Holdings (Ft. Pierce), Tampa Bay Downs, Tampa Greyhound and Washington County Kennel Club (Ebro), (on file with Senate Committee on Regulated Industries).

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 substantially amends section 16.716 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 Regulated Industries

580-00911-26

20267008pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 16.716, F.S., which provides an exemption from public records and public meeting requirements for exempt or confidential and exempt information obtained by the Florida Gaming Control Commission; deleting the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 16.716, Florida Statutes, is amended to read:

16.716 Florida Gaming Control Commission public records and public meetings exemptions.—

(1) ~~(a)~~ Any information obtained by the Florida Gaming

Control Commission which is exempt or confidential and exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency, as defined in s. 119.011, or a governmental entity in the performance of the commission's official duties and responsibilities. An agency or a governmental entity receiving such information from the commission shall maintain the exempt or confidential and exempt status of the information.

~~(2)(b)1.~~ Any portion of a meeting of the commission during which information that is exempt or confidential and exempt is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the

Page 1 of 3

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

580-00911-26

20267008pb

State Constitution.

~~(a)1.~~ The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

~~(b)2.~~ The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the commission.

~~(c)3.~~ The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record. Such recording shall be maintained by the commission.

~~(d)2.~~ Only members of the commission, Department of Legal Affairs staff, or commission staff supporting the commission's function and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information shall be allowed to attend the exempted portions of the commission meetings. The commission shall ensure that any closure of its meetings as authorized by this subsection ~~paragraph~~ is limited so that the general policy of this state in favor of public meetings is maintained.

~~(e)3.~~ A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this subsection ~~paragraph~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

Page 2 of 3

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

580-00911-26

20267008pb

59 of the State Constitution until such time as the information is
60 no longer exempt or confidential and exempt.

61 (2) This section is subject to the Open Government Sunset
62 Review Act in accordance with s. 119.15 and is repealed on
63 October 2, 2026, unless reviewed and saved from repeal through
64 reenactment by the Legislature.

65 Section 2. This act shall take effect upon becoming a law.

Florida Gaming Control Commission
Open Government Sunset Review Questionnaire
(Public Records and Meetings regarding Exempt or Confidential and Exempt Information
Obtained by the Florida Gaming Control Commission)
July 16, 2025

The staff of the Senate Regulated Industries Committee and the House of Representatives Government Operations Subcommittee are conducting a review of section 16.716, Florida Statutes, pursuant the Open Government Sunset Review Act, section 119.15, Florida Statutes (act).

In 2021, chapter 2021-270, Laws of Florida, the Legislature provided that any information obtained by the Florida Gaming Control Commission that was exempt or confidential and exempt from s. 119.07, F.S., or s. 24(a), Art. I, of the Florida Constitution would retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency as defined in s. 119.011, F.S. or a governmental entity in the performance of the commission's duties. The agency or governmental entity must maintain the exempt or confidential and exempt status of the information.

Any portion of a meeting of the commission at which this information is discussed is exempt from s. 286.011, F.S. and s. 24(b), Art. I of the Florida Constitution in compliance with the following requirements. The chair must advise the commission that it is necessary to discuss the information, the chair's determination and reasons for the closure of the meeting must be written and included in the official records, the entire closed session must be recorded and maintained by the commission. The recording is confidential and exempt until the underlying information is no longer exempt or confidential and exempt.

Only members of the commission, Department of Legal Affairs staff, appropriate commission staff, and other persons needed to present the information are allowed to attend the exempt portions of the commission's meeting.

The public record and public meeting exemptions stand repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

To assist committee staff as part of their review of these exemptions, please complete this questionnaire. A copy of s. 16.716, F.S., is attached for your convenience.

Florida Gaming Control Commission

Name and Title of Person Completing the Questionnaire: Ross Marshman, Acting Executive Director

Telephone Number of Person Completing the Questionnaire: 850-794-8073

E-mail Address of Person Completing the Questionnaire: ross.marshman@flgaming.gov

1. Has the commission received exempt or confidential and exempt information under this exemption?

Yes.

2. Whom does the commission believe these public record exemptions affect?

Non-sworn Commission investigators, law enforcement, including Division of Gaming Enforcement personnel, criminal organizations, permitholders and licensees, news media, and the public.

3. Please describe the information or types of records affected by these public record exemptions.

Criminal intelligence information and criminal investigative information; investigative information obtained by non-sworn Commission investigators (see, e.g. § 550.0251(9), Fla. Stat.; information designated as a trade secret.

4. Can the protected information be readily obtained by alternative means? If “yes,” please explain.

No.

5. Does any other Florida or federal law protect the information identified in the exemptions? If “yes”:

- a. Please provide the specific Florida or federal citation for each exemption.

Sections 119.071(2), 119.0715, and 550.0251(9), Florida Statutes.

- b. Please explain which exemption your agency relies upon when responding to a public records request that includes the protected information.

Sections 119.071(2), 119.0715, and 550.0251(9), Florida Statutes.

- c. In your agency’s opinion, could the public record exemptions under review be merged with any other exemption(s)? If “yes,” please explain and include the Florida citation of the exemption that could be merged with the public record exemptions under review.

No.

6. Is the commission aware of any ongoing litigation, existing case law, administrative orders, or Attorney General opinions involving the exemptions under review? If “yes,” please provide the appropriate citation(s).

No.

7. Has the commission, pursuant to s. 119.071(3)(e)3., F.S., ever released the information covered by these public records exemptions? If “yes,” please explain.

No.

8. Which of the following actions does the commission recommend the Legislature take regarding the public record exemptions (please select one):

☐ Repeal the public record exemptions

☒ Reenact the public record exemptions as is

☐ Reenact the public record exemptions with changes (if selected please explain below)

9. Please provide any additional comments the commission may have regarding the public record exemptions under review.

The Commission’s comments regarding the exemption from the public meeting requirement are more fully addressed in Item 15 below. In the Commission’s exercise of the executive and regulatory powers delegated under section 16.712, Florida Statutes, the Commissioners may be required to review

and discuss information that is exempt from public disclosure under chapter 119, including criminal and administrative investigative information and information designated as a trade secret.

10. Does the commission hold meetings in which any of the exempt or confidential and exempt information is discussed?

Yes.

11. What types of meetings held by your agency are affected by the exemptions?

Monthly public meetings, emergency meetings, or any other meeting at which two or more commissioners may be present.

12. Is the commission aware of any ongoing litigation, existing case law, administrative orders, or Attorney General opinions involving the public meeting exemptions? If “yes,” please provide the appropriate citation(s).

No.

13. Does any other Florida or federal law protect the meetings described in the exemptions? If “yes,”:

- a. Please provide the specific Florida or federal citation for each exemption.

N/A.

- b. Please explain which exemption(s) your agency relies upon when closing a public meeting.

Section 16.716(b), Florida Statutes.

- c. In your agency’s opinion, could the public meeting exemptions under review be merged with any other exemption(s)?

No.

14. Which of the following actions does the commission recommend the Legislature take (please select one):

☐ Repeal the public meeting exemptions

☒ Reenact the public meeting exemptions as is

☐ Reenact the public meeting exemptions with changes (if selected, please explain below)

15. Please provide any additional comments the commission may have regarding the public meeting exemptions.

Aside from section 16.716, Florida Statutes, no other provision shields criminal intelligence information, criminal investigative information, investigative information collected by non-sworn investigators, and information designated as a trade secret from scrutiny during public meetings of the Commission – section 286.011, Florida Statutes, standing alone, does not enable the Commission to close portions of public meetings solely because such exempt information is to be

discussed. Section 286.011 only references certain forms of litigation as a sufficient basis to close a public meeting. § 286.011(8), Fla. Stat. (describing “pending litigation.”).

2024 Florida Statutes

EXEMPTIONS UNDER REVIEW

16.716 Florida Gaming Control Commission public records and public meetings exemptions.—

(1)(a) Any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency, as defined in s. 119.011, or a governmental entity in the performance of the commission's official duties and responsibilities. An agency or a governmental entity receiving such information from the commission shall maintain the exempt or confidential and exempt status of the information.(b)1. Any portion of a meeting of the commission during which information that is exempt or confidential and exempt is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

a. The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

b. The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the commission.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record. Such recording shall be maintained by the commission.

2. Only members of the commission, Department of Legal Affairs staff, or commission staff supporting the commission's function and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information shall be allowed to attend the exempted portions of the commission meetings. The commission shall ensure that any closure of its meetings as authorized by this paragraph is limited so that the general policy of this state in favor of public meetings is maintained.

3. A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the information is no longer exempt or confidential and exempt.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2021-270.

From: Gary Rutledge <Gary@rutledge-ecenia.com>

Sent: Monday, September 29, 2025 2:39 PM

To: Baird, Steven <baird.steven@flsenate.gov>

Cc: Imhof, Booter <imhof.booter@flsenate.gov>

Subject: Open Government Sunset Review Questionnaire

Steven,

As counsel for my clients: 831 Federal Highway Acquisition d/b/a/ The Big Easy Casino, St. Petersburg Kennel Club (Derby Lane), Sarasota Kennel Club, Fronton Holdings (Ft. Pierce), Tampa Bay Downs, Tampa Greyhound and Washington County Kennel Club (Ebro), I am authorized to provide the completed questionnaire, as answered below:

1. Has your organization submitted exempt or confidential and exempt information to the commission under this exemption? **The organization has submitted confidential and exempt information to the Commission, but we do not recall if such information was submitted specifically under the exemption in Section 16.716, Fla. Stat.**
2. If so, what type of information have you submitted to the commission? **Generally, the type of confidential and exempt information that would be submitted by the facility includes trade secret information (i.e., financials, ownership structure, floor plans, etc.), plans related to facility security, building plans, social security numbers, and potentially responses to investigations/administrative complaints.**
3. Whom do you believe this public record exemptions affect? **The facility is not certain what is meant by this question.**
4. Please describe the information or types of records you believe are affected by these public record exemptions. **Please response to question 2 above.**
5. Can the protected information be readily obtained by alternative means? If “yes,” please explain. **Not to the facilities knowledge.**
6. Does any other Florida or federal law protect the information identified in the exemptions? If “yes”:
 - a. Please provide the specific Florida or federal citation for each exemption.

Trade Secrets are protected under section 119.0715, F.S.

Security Plans are protected under section 119.071(3), F.S.

Building plans/schematics are protected under section 119.071(3), F.S.

Social Security Numbers are protected under section 119.071(5), F.S.

Meetings of the Commission addressing pending or threatened litigation would be confidential if in compliance with section 286.011(5), Fla. Stat.

b. Please explain which exemption you believe the commission relies upon when responding to a public records request that includes the protected information. **Not within the facility's ready knowledge, but it appears that without the exemption, discussions by the Commission regarding documents that are confidential and exempt under chapter 119, F.S., would not necessarily be exempt under the open meetings laws.**

c. In your opinion, could the public record exemptions under review be merged with any other exemption(s)? If "yes," please explain and include the Florida citation of the exemption that could be merged with the public record exemptions under review. **Without knowledge.**

7. Are you aware of any ongoing litigation, existing case law, administrative orders, or Attorney General opinions involving the exemptions under review? If "yes," please provide the appropriate citation(s). **No.**

8. Has the commission, to your knowledge, ever released the information covered by these public records exemptions under to s. 119.071(3)(e)3., F.S.? If "yes," please explain. **Without knowledge.**

9. Which of the following actions does your organization recommend the Legislature take regarding the public record exemptions (please select one):

☐ Repeal the public record exemptions

☒ Reenact the public record exemptions as is

☐ Reenact the public record exemptions with changes (if selected please explain below)

10. Please provide any additional comments the commission may have regarding the public record exemptions under review. **Unknown**

11. To your knowledge has the commission hold meetings in which any of the exempt or confidential and exempt information is discussed? The Commission holds closed sessions at its monthly commission meetings. **Presumably, some or all of the above-listed exempt or confidential information is likely discussed over time.**

12. What types of meetings held by the commission do you believe are affected by the exemptions? **The facility is not certain what is meant by this question.**

13. Are you aware of any ongoing litigation, existing case law, administrative orders, or Attorney General opinions involving the public meeting exemptions? If “yes,” please provide the appropriate citation(s). **No.**

14. Does any other Florida or federal law protect the meetings described in the exemptions? If “yes,”: **Please see response to question 6a above.**

a. Please provide the specific Florida or federal citation for each exemption.

b. Please explain which exemption(s) you believe the commission relies upon when closing a public meeting.

c. In your opinion, could the public meeting exemptions under review be merged with any other exemption(s)?

15. Which of the following actions does your organization recommend the Legislature take (please select one):

☐ Repeal the public meeting exemptions

☒ Reenact the public meeting exemptions as is

☐ Reenact the public meeting exemptions with changes (if selected, please explain below)

16. Please provide any additional comments the commission may have regarding the public meeting exemptions. **Unknown.**



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR

President Pro Tempore
10th District

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Appropriations
Appropriations Committee on Health and
Human Services
Governmental Oversight and Accountability
Regulated Industries
Rules

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

JOINT COMMITTEES:

Joint Legislative Auditing Committee,
Alternating Chair
Joint Legislative Budget Commission

November 11, 2025

The Honorable Jennifer Bradley
Chair of the Committee on Regulated Industries
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

I respectfully request an excused absence from the Committee on Regulated Industries meeting on November 18, 2025.

Thank you in advance for your consideration of this request.

cc:

Booter Imhof, Staff Director
Susan Datres, Administrative Assistant
Mary Lee, Legislative Aide
Tonya Shays, Legislative Aide

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive, with the first name "Jason" and last name "Brodeur" clearly legible.

Jason Brodeur State Senator, District 10

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida (407) 333-1802
- 416 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education Postsecondary, *Chair*
Education Pre-K - 12, *Vice Chair*
Appropriations Committee on Higher Education
Appropriations Committee on Pre-K - 12 Education
Fiscal Policy
Health Policy
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR ALEXIS CALATAYUD

38th District

November 17, 2025

The Honorable Jennifer Bradley
Chair, The Regulated Industries Committee
305 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

Senator Calatayud respectfully requests an excused absence from the November 18th Committee on Regulated Industries.

I appreciate your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Nicole Fumarola".

Nicole Fumarola

REPLY TO:

- ☐ Kendall Campus, 11011 SW 104th Street, Suite 5101, Miami, Florida 33176 (305) 596-3002
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

CourtSmart Tag Report

Room: KB 412
Caption: Senate Committee on Regulated Industries

Case No.:

Type:
Judge:

Started: 11/18/2025 1:02:56 PM

Ends: 11/18/2025 1:10:12 PM

Length: 00:07:17

1:03:03 PM	Chair Bradley calls meeting to order
1:03:05 PM	Roll call
1:03:22 PM	Quorum present
1:03:29 PM	Chair makes opening remarks
1:04:06 PM	Senators Calatayud and Brodeur excused
1:04:20 PM	Tab 1 SPB 7006 by Regulated Industries
1:04:35 PM	Mr. Kurt Schrader explains the proposed bill
1:05:54 PM	Questions:
1:06:10 PM	Sen. Bracy Davis
1:06:18 PM	Mr. Schrader
1:07:17 PM	No debate
1:07:27 PM	Vice Chair Pizzo moves SPB 7006 submitted as committee bill
1:07:30 PM	Motion adopted
1:07:32 PM	Roll call
1:08:00 PM	SPB 7006 is reported favorably as a committee bill
1:08:05 PM	Tab 2 SPB 7008 by Regulated Industries
1:08:15 PM	Mr. Steven Baird explains the bill
1:08:53 PM	Questions:
1:09:00 PM	Vice Chair Pizzo
1:09:13 PM	No debate
1:09:24 PM	Vice Chair Pizzo moves SBP 7008 submitted as committee bill
1:09:26 PM	Motion adopted
1:09:27 PM	Roll call
1:09:51 PM	SPB 7008 favorably reported as a committee bill
1:10:03 PM	Sen. Bracy Davis moves meeting adjourn
1:10:05 PM	Meeting adjourned