

By the Committee on Banking and Insurance and Senator Clary

311-1790-98

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 440.108, F.S.; providing an exemption from
 4 public records requirements for certain
 5 information obtained in administering the
 6 Workers' Compensation Law; providing for the
 7 applicability of confidentiality provisions;
 8 authorizing the furnishing of information under
 9 certain conditions; providing for future review
 10 and repeal; providing a finding of public
 11 necessity; providing a contingent effective
 12 date.

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

16 Section 1. Section 440.108, Florida Statutes, is
 17 created to read:

18 440.108 Investigatory records relating to workers'
 19 compensation employer compliance; confidentiality.--

20 (1) All investigatory records of the Division of
 21 Workers' Compensation made or received pursuant to s. 440.107
 22 and any records necessary to complete an investigation are
 23 confidential and exempt from the provisions of s. 119.07(1)
 24 and s. 24(a), Art. I of the State Constitution until the
 25 investigation is completed or ceases to be active. For
 26 purposes of this section, an investigation is considered
 27 "active" while such investigation is being conducted by the
 28 division with a reasonable, good-faith belief that it may lead
 29 to the filing of administrative, civil, or criminal
 30 proceedings. An investigation does not cease to be active if
 31 the agency is proceeding with reasonable dispatch and there is

1 a good-faith belief that action may be initiated by the agency
2 or other administrative or law enforcement agency. After an
3 investigation is completed or ceases to be active, records
4 relating to the investigation remain confidential and exempt
5 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
6 the State Constitution if disclosure would:

7 (a) Jeopardize the integrity of another active
8 investigation;

9 (b) Reveal a trade secret, as defined in s. 688.002;

10 (c) Reveal business or personal financial information;

11 (d) Reveal the identity of a confidential source;

12 (e) Defame or cause unwarranted damage to the good
13 name or reputation of an individual or jeopardize the safety
14 of an individual; or

15 (f) Reveal investigative techniques or procedures.

16 (2) This exemption is subject to the Open Government
17 Sunset Review Act of 1995 in accordance with s. 119.15, and
18 shall stand repealed on October 2, 2003, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 Section 2. The Legislature finds that it is a public
21 necessity that these investigatory and examination records be
22 held confidential and exempt during an investigation in order
23 not to compromise the investigation and disseminate
24 potentially inaccurate information. To the extent this
25 information is made available to the public, those persons
26 being investigated will not have access to such information
27 which would potentially defeat the purpose of the
28 investigation. This would impede the effective and efficient
29 operation of investigatory governmental functions.

30 Section 3. This act shall take effect on the effective
31 date of Senate Bill 1406, or similar legislation, relating to

1 the powers of the Division of Workers' Compensation of the
2 Department of Labor and Employment Security.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 1408

7 Limits the scope of the public records exemption to
8 investigatory records of the Division of Workers' Compensation
9 (Department of Labor and Employment Security) which are
received pursuant to s. 440.107, F.S., and which are necessary
to complete an investigation.

10 Provides that such investigatory records become public and are
11 disclosed when the investigation by the division is completed
or ceases to be active, as defined.

12 Provides that under limited circumstances, certain
13 investigatory records remain confidential and enumerates those
specific circumstances.

14 Removes the penalty provision for persons who violate the
15 confidentiality provision.

16 Revises the public necessity statement stating that the
17 investigatory records to be held confidential and exempt
during an investigation in order not to compromise the
18 investigation and disseminate potentially inaccurate
information.

19 Provides that the law shall become effective on the effective
20 date of SB 1406, or similar legislation.

21
22
23
24
25
26
27
28
29
30
31