

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; amending s. 440.185, F.S.; providing
12 an exemption from public records requirements
13 for information in a report of injury or
14 illness filed pursuant to the Workers'
15 Compensation Law; providing a finding of public
16 necessity; providing effective dates.

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

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20 Section 1. Section 440.108, Florida Statutes, is
21 created to read:

22 440.108 Investigatory records relating to workers'
23 compensation employer compliance; confidentiality.--

24 (1) All investigatory records of the Division of
25 Workers' Compensation made or received pursuant to s. 440.107
26 and any records necessary to complete an investigation are
27 confidential and exempt from the provisions of s. 119.07(1)
28 and s. 24(a), Art. I of the State Constitution until the
29 investigation is completed or ceases to be active. For
30 purposes of this section, an investigation is considered
31 "active" while such investigation is being conducted by the

1 division with a reasonable, good-faith belief that it may lead
2 to the filing of administrative, civil, or criminal
3 proceedings. An investigation does not cease to be active if
4 the agency is proceeding with reasonable dispatch and there is
5 a good-faith belief that action may be initiated by the agency
6 or other administrative or law enforcement agency. After an
7 investigation is completed or ceases to be active, records
8 relating to the investigation remain confidential and exempt
9 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
10 the State Constitution if disclosure would:

- 11 (a) Jeopardize the integrity of another active
12 investigation;
13 (b) Reveal a trade secret, as defined in s. 688.002;
14 (c) Reveal business or personal financial information;
15 (d) Reveal the identity of a confidential source;
16 (e) Defame or cause unwarranted damage to the good
17 name or reputation of an individual or jeopardize the safety
18 of an individual; or
19 (f) Reveal investigative techniques or procedures.

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22 shall stand repealed on October 2, 2003, unless reviewed and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

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

1 investigation. This would impede the effective and efficient
2 operation of investigatory governmental functions.
3 Additionally, the Legislature finds that it is a public
4 necessity that trade secrets or business or personal financial
5 records remain confidential and exempt after an investigation
6 is completed or ceases to be active because the disclosure of
7 such information would injure the affected party in the
8 marketplace. Further, information that would defame or cause
9 unwarranted damage to the name or reputation of an individual,
10 or jeopardize the safety of an individual, must remain
11 confidential and exempt after an investigation is completed or
12 ceases to be active to protect that individual's name or
13 reputation or personal safety. As well, information that would
14 jeopardize the integrity of another active investigation or
15 that would reveal investigative techniques or procedures must
16 remain confidential and exempt after an investigation is
17 completed or ceases to be active in order to permit the
18 effective and efficient operation of the program.

19 Section 3. Subsection (10) of section 440.185, Florida
20 Statutes, is created to read:

21 440.185 Notice of injury or death; reports; penalties
22 for violations.--

23 (10) Any information in a report of injury or illness
24 filed pursuant to this section that would identify an ill or
25 injured employee is confidential and exempt from the
26 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution.

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29 This subsection is subject to the Open Government Sunset
30 Review Act of 1995 in accordance with s. 119.15, and shall
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1 stand repealed on October 2, 2003, unless reviewed and saved
2 from repeal through reenactment by the Legislature.

3 Section 4. The Legislature finds that it is a public
4 necessity that any information in a report of injury or
5 illness filed pursuant to section 440.185, Florida Statutes,
6 that would identify an ill or injured employee, be held
7 confidential and exempt because such information is of a
8 sensitive, personal nature. Disclosure of such sensitive,
9 personal information about an employee is an invasion of that
10 employee's privacy. Further, the release of such information
11 could lead to discrimination against the employee by
12 coworkers, potential employers, and others. The harm caused
13 to such an employee by the release of this information
14 outweighs any public benefit derived from its release.

15 Section 5. Sections 1 and 2 of this act shall take
16 effect on the effective date of CS/CS/SB 1406, or similar
17 legislation, relating to the powers of the Division of
18 Workers' Compensation of the Department of Labor and
19 Employment Security, and Sections 3 and 4 of this act shall
20 take effect upon becoming law.

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