

STORAGE NAME: h1945z.ei
DATE: May 22, 1998

****AS PASSED BY THE LEGISLATURE****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1945, 1st Engrossed (PCB EI 97-02)
RELATING TO: Public Records for Florida Endowment Foundation for Florida's Graduates
SPONSOR(S): Committee on Education Innovation and Representatives Melvin and Wise
STATUTE(S) AFFECTED: s. 446.609, F.S.
COMPANION BILL(S): SB 1738 (Similar)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) EDUCATION INNOVATION YEAS 5 NAYS 1
(2)
(3)
(4)
(5)

I. FINAL ACTION STATUS:

HB 1945, 1st Engrossed, passed the Legislature, and was ordered enrolled on April 28, 1998. On May 22, 1998, the bill was vetoed by the Governor.

II. SUMMARY:

HB 1945 provides an exemption from the public records requirements for information which identifies a person who contributes to the Florida Endowment Foundation for Florida's Graduates. The exemption will stand repealed on October 2, 2003, unless reviewed and reenacted by the Legislature.

The bill also provides a public necessity statement outlining the reasons for the exemption.

This bill does not have a fiscal impact on state or local government.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 119, F.S., requires that public records held by an agency are subject to inspection and copying by the public. Subsection (1) of chapter 119, F.S., provides that the public has a right to inspect, examine and duplicate public records. However, public records may be exempted from public disclosure.

Article 1, section 24, Florida Constitution, provides that exemptions, other than those expressly provided for in the Constitution, may only be accomplished by general law. General law exempting records "shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law."

Exemptions are analyzed using the following definition of public necessity: A public necessity justifying an exemption exists when, after considering the public good served by access to the record or meeting and the public or private harm that could be caused by allowing or denying access to the record or meeting, it is determined that the presumption in favor of open records and meetings is overcome because the public's interest are best served by denying access in whole or part to the record or meeting; and, access is denied to as little of the record or meeting as is practicable.

Section 229.8021(4), F.S., provides a general exemption protecting the identity of donors for Department of Education direct-support organizations. All information identifying donors and prospective donors is confidential and exempt from the provisions of s. 119.07(1), F.S. That anonymity is maintained in the auditor's report. All other records and information are considered public records for the purposes of Chapter 119.

Jobs for America's Graduates

Jobs for America's Graduates (JAG) began in 1980 as an experimental school to work program for at-risk youth in Delaware under the administration of Governor Pete DuPont. In the 17 years since then Jobs for Delaware's Graduates has evolved into Jobs for America's Graduates and operates in all or part of 25 states, and Washington, D.C. The program is unique in that it depends to a large degree on significant private sector funding and involvement.

Florida Endowment Foundation for Florida's Graduates

The Florida Endowment Foundation for Florida's Graduates, a not for profit organization, serves as a direct service organization of the Department of Education to operate Jobs for Florida's Graduates. It is funded by a combination of state funds, and private contributions primarily from the private sector beneficiaries of the program. It is anticipated that the amount of state funding will decrease as the JFG endowment increases.

The foundation is operated by a board of directors with measurable performance standards and employs mostly non-state employees.

B. EFFECT OF PROPOSED CHANGES:

This bill creates an specific exemption from public disclosure of information revealing the identity of a person who donates money to the Florida Endowment Fund for Florida's Graduates. Persons affected by the exemption justify its need by stating that it protects donors from being bombarded with solicitations.

Failure to ensure the confidentiality of the identities of donors could adversely affect the ability of the Florida Endowment Foundation for Florida's Graduates to raise future funds.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Donors will be entitled to an exemption from open records.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

Not applicable.

- a. Does the bill increase anyone's taxes?
- b. Does the bill require or authorize an increase in any fees?
- c. Does the bill reduce total taxes, both rates and revenues?
- d. Does the bill reduce total fees, both rates and revenues?
- e. Does the bill authorize any fee or tax increase by any local government?

3. Personal Responsibility:

Not applicable.

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, private donors to Jobs for Florida's Graduates will not be required to disclose information as would a state agency or an entity that is not granted an exemption to the public records requirement.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

Not applicable.

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1 Creates s. 446.609 (14) F.S., providing an exemption from the public records requirements for information revealing the identities of donors.

Section 2 Provides a statement of public necessity for the exemption.

Section 3 Provides that this act will take effect at the same time that the legislation creating the Jobs for Florida's Graduates Act takes effect.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

None.

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

4. Total Revenues and Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

None.

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

1. Direct Private Sector Costs:

2. Direct Private Sector Benefits:

3. Effects on Competition, Private Enterprise and Employment Markets:

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

PCB EI 97-01a was reported favorably by the Education Innovation Committee on April 1, 1997 and subsequently renamed to PCB EI 97-02. On April 7, 1997 PCB EI 97-02 was filed as HB 1945.

VIII. FINAL ACTION:

On April 28, 1997, HB 1945 passed the House with 116 Yeas and 1 Nay. On April 29, 1997, HB 1945 was received in the Senate and referred to the Education Committee. On May 2, 1997, upon adjournment of Senate Education, HB 1945 was carried over to the 1998 Session pursuant to House Rule 96, and placed on the House Consent Calendar, where it was when the 1997 legislative session ended.

On March 24, 1998, the bill was amended on the House floor to change the date of repeal from 2002 to 2003. The bill passed the House on the same day with 118 YEAS and 1 NAY. On April 28, 1998, it passed the Senate with 36 YEAS and 0 NAYS and was ordered enrolled. The bill was presented to the Governor on May 8, 1998.

IX. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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