

**STORAGE NAME:** h0731.sa.doc

**DATE:** March 21, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
STATE ADMINISTRATION  
ANALYSIS**

**BILL #:** HB 731

**RELATING TO:** Public Records/Local Government/WMD

**SPONSOR(S):** Representative(s) Kottkamp

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) STATE ADMINISTRATION
  - (2) COUNCIL FOR SMARTER GOVERNMENT
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

Current law exempts from public disclosure certain personal identifying information associated with various classes of public employees.

This bill creates an additional public records exemption for certain personal identifying information:

- The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties;
- The names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and
- The names and locations of schools and day care facilities attended by the children of such personnel.

An agency that is a custodian of such personal identifying information, but which is not the employing agency of the person to whom the personal information pertains, must keep such information exempt if the employee or his or her employer submits a written request for confidentiality to that agency.

If such information were not made exempt from public disclosure, then a human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager or such person's family could be harmed or threatened with harm by a current or former employee or a friend or family member of a current or former employee.

This exemption is made subject to the Open Government Sunset Review Act of 1995 and will repeal on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Public Records Law**

Florida Constitution

Article I, s. 24(a), Florida Constitution, expresses Florida's public policy regarding access to government records as follows:

Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24(c), Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish its purpose.

Florida Statutes

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1)(a), F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

### Open Government Sunset Review Act of 1995

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, provides that an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes, and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

### **Personal Identifying Information of Public Employees**

Section 119.07(3)(i), F.S., exempts certain personal identifying information associated with various classes of public employees from public disclosure. It provides for the exemption of information that would reveal the home address, telephone number, or photograph of active or former law enforcement personnel, including correctional and correctional probation officers, and certain personnel of the Department of Children and Family Services and the Department of Revenue. Certain identifying information about the spouses and children of law enforcement personnel is also exempt. The public records exemption minimizes the possibility that inmates, offenders, or other individuals will be able to threaten, intimidate, harass, or cause physical harm or other injury to these persons or their family members.

An agency that is a custodian of such personal information, but which is not the employing agency of the person to whom the personal information pertains, is required to keep such information exempt only if the employee or his or her employing agency, submits a written request for confidentiality.<sup>1</sup>

#### C. EFFECT OF PROPOSED CHANGES:

This bill creates a public records exemption for certain personal identifying information. This information includes:

- The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, managers, or assistant

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<sup>1</sup> See s. 119.07(3)(i)2., F.S.

managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties;

- The names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and
- The names and locations of schools and day care facilities attended by the children of such personnel.

This bill requires that an agency, which is a custodian of personal information, but which is not the employing agency of the person to whom the personal information pertains, must keep such information exempt if the employee or his or her employing agency submits a written request for confidentiality to that agency.

If such information were not made exempt from public disclosure, then according to the public necessity statement provided in the bill, such personnel and their families “could be harmed or threatened with harm by a current or former employee or a friend or family member of a current or former employee.”

This exemption is made subject to the Open Government Sunset Review Act of 1995 and will repeal on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

D. SECTION-BY-SECTION ANALYSIS:

See “Effect of Proposed Changes.”

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. 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 action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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