

By Senator Clary

4-981-03

See HB

1 A bill to be entitled
2 An act relating to an exemption from public
3 records and public meetings requirements for
4 certain information held by the Florida
5 Institute of Human and Machine Cognition;
6 creating an exemption from public records
7 requirements for specified materials, actual
8 and potential trade secrets, potentially
9 patentable material, proprietary information,
10 information identifying donors to the
11 institute, audit information, attorney-client
12 communications, bids and contractual data,
13 credit agreements, information relating to
14 private contractual data, and information
15 relating to corporate officers and employee
16 personnel held by the institute; providing for
17 specified access to certain information by
18 governmental entities; creating an exemption
19 from public meetings requirements for specified
20 meetings of the governing board of the
21 not-for-profit corporation organized to govern
22 and operate the institute and subsidiaries of
23 the not-for-profit corporation; providing for
24 future review and repeal; providing a statement
25 of public necessity; providing a contingent
26 effective date.

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28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Florida Institute of Human and Machine
2 Cognition; public records exemption; public meetings
3 exemption.--

4 (1) The following information is confidential and
5 exempt from the provisions of section 119.07(1), Florida
6 Statutes, and section 24, Article I of the State Constitution:

7 (a) Materials that relate to methods of manufacture or
8 production, potential trade secrets, potentially patentable
9 material, actual trade secrets as defined in section 688.002,
10 Florida Statutes, or proprietary information received,
11 generated, ascertained, or discovered during the course of
12 research conducted by or through the Florida Institute of
13 Human and Machine Cognition and business transactions
14 resulting from such research.

15 (b) The identity of a donor or prospective donor to
16 the Florida Institute of Human and Machine Cognition who
17 wishes to remain anonymous and all information identifying
18 such donor or prospective donor.

19 (c) Any information received by the institute in the
20 performance of its duties and responsibilities which is
21 otherwise confidential and exempt by law.

22 (d) Any information received by the institute from a
23 person from another state or nation or the Federal Government
24 which is otherwise confidential or exempt pursuant to that
25 state's or nation's laws or pursuant to federal law.

26 (e) Internal auditing controls and reports of internal
27 auditors.

28 (f) Matters reasonably encompassed in privileged
29 attorney-client communications.

30 (g) Bids or other contractual data, banking records,
31 and credit agreements the disclosure of which would impair the

1 efforts of the not-for-profit corporation or its subsidiaries
2 to contract for goods and services on favorable terms.

3 (h) Information relating to private contractual data
4 the disclosure of which would impair the competitive interest
5 of the provider of the information.

6 (i) Corporate officer and employee personnel
7 information.

8 (2) Any governmental entity that demonstrates a need
9 to access any confidential and exempt information or materials
10 set forth in subsection (1) in order to perform its duties and
11 responsibilities shall have access to such information and
12 shall otherwise keep such information confidential and exempt.

13 (3) All information and materials described in
14 subsection (1) owned, controlled, or acquired by the Florida
15 Institute of Human and Machine Cognition are not subject to
16 subpoena, discovery, or introduction into evidence in any
17 civil proceeding, except that such information and materials
18 otherwise available from other sources are not immune from
19 subpoena, discovery, or introduction into evidence from those
20 sources solely because they were presented to the Florida
21 Institute of Human and Machine Cognition.

22 (4) Meetings of the governing board of the
23 not-for-profit corporation and meetings of the subsidiaries of
24 the not-for-profit corporation at which the expenditure of
25 funds appropriated to the not-for-profit corporation by the
26 state are discussed or reported must remain open to the public
27 in accordance with section 286.011, Florida Statutes, and
28 section 24(b), Article I of the State Constitution unless made
29 confidential or exempt by law. Other meetings of the governing
30 board of the not-for-profit corporation and of the
31 subsidiaries of the not-for-profit corporation are exempt from

1 section 286.011, Florida Statutes, and section 24(b), Article
2 I of the State Constitution.

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4 This section is subject to the Open Government Sunset Review
5 Act of 1995 in accordance with section 119.15, Florida
6 Statutes, and shall stand repealed on October 2, 2008, unless
7 reviewed and saved from repeal through reenactment by the
8 Legislature.

9 Section 2. The Legislature finds that the public
10 records and meetings exemption provided in section 1 of this
11 act for specified information held by and specified meetings
12 of the Florida Institute of Human and Machine Cognition is a
13 public necessity because unrestricted public access to
14 information, proceedings, and hearings relating to the
15 institute's scientific research, reports, and contract and
16 grant activity related thereto might damage the success and
17 intellectual property development of the institute if made
18 available to its competitors and could substantially affect
19 the willingness of federal and foreign agencies to contract
20 with the institute. Furthermore, public access to such
21 information would not serve a public interest in that such
22 information will be released in publications and news releases
23 as soon as trademark and patent proceedings are initiated. The
24 Legislature also finds that reports and research of the
25 institute may constitute trade secrets that give the institute
26 a competitive advantage in the private market. Public access
27 to such information could affect the institute's ability to
28 secure federal and international business. The Legislature
29 finds that the ability of the institute to secure outside
30 contract and grant activity is a public benefit. Providing
31 confidentiality for such records and proceedings enables the

1 institute to be more open and frank in the information so
2 provided without the attendant fear that honest and truthful
3 exchange of information will result in the public
4 dissemination of information that could be used to harm the
5 institute and its members. Therefore, it is a public necessity
6 to maintain the confidentiality of this information and these
7 proceedings and reports. Finally, the Legislature finds that
8 the public has access through other means to information
9 regarding the work of the institute through public
10 distribution of research articles and news media events.

11 Section 3. This act shall take effect July 1, 2003, if
12 SB ____ or similar legislation is adopted in the same
13 legislative session or an extension thereof and becomes law.

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