

By the Committee on Education; and Senator Clary

304-2043-03

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 the disclosure of which would impair the ability  
8 of the not-for-profit corporation or its subsidiaries to  
9 recruit personnel.

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

15 (3) Meetings of the governing board of the  
16 not-for-profit corporation and meetings of the subsidiaries of  
17 the not-for-profit corporation at which the expenditure of  
18 funds appropriated to the not-for-profit corporation by the  
19 state are discussed or reported must remain open to the public  
20 in accordance with section 286.011, Florida Statutes, and  
21 Section 24(b), Article I of the State Constitution unless made  
22 confidential or exempt by law. Other meetings of the governing  
23 board of the not-for-profit corporation and of the  
24 subsidiaries of the not-for-profit corporation are exempt from  
25 section 286.011, Florida Statutes, and Section 24(b), Article  
26 I of the State Constitution.

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30 Statutes, and shall stand repealed on October 2, 2008, unless  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

3       Section 2. The Legislature finds that the public  
4 records and meetings exemption provided in section 1 of this  
5 act for specified information held by and specified meetings  
6 of the Florida Institute of Human and Machine Cognition is a  
7 public necessity because unrestricted public access to  
8 information, proceedings, and hearings relating to the  
9 institute's scientific research, reports, and contract and  
10 grant activity related thereto might damage the success and  
11 intellectual property development of the institute if made  
12 available to its competitors and could substantially affect  
13 the willingness of federal and foreign agencies to contract  
14 with the institute. Furthermore, public access to such  
15 information would not serve a public interest in that such  
16 information will be released in publications and news releases  
17 as soon as trademark and patent proceedings are initiated. The  
18 Legislature also finds that reports and research of the  
19 institute may constitute trade secrets that give the institute  
20 a competitive advantage in the private market. Public access  
21 to such information could affect the institute's ability to  
22 secure federal and international business. The Legislature  
23 also finds that the disclosure of donor identity information,  
24 if not kept confidential, could have a chilling affect on  
25 donations. The Legislature finds that the ability of the  
26 institute to secure outside contract and grant activity is a  
27 public benefit. Providing confidentiality for such records and  
28 proceedings enables the institute to be more open and frank in  
29 the information so provided without the attendant fear that  
30 honest and truthful exchange of information will result in the  
31 public dissemination of information that could be used to harm

1 the institute and its members. Therefore, it is a public  
2 necessity to maintain the confidentiality of this information  
3 and these proceedings and reports. The Legislature also finds  
4 that the disclosure of corporate officer and employee  
5 personnel information may have a chilling effect on attracting  
6 qualified personnel. Finally, the Legislature finds that the  
7 public has access through other means to information regarding  
8 the work of the institute through public distribution of  
9 research articles and news media events.

10 Section 3. This act shall take effect July 1, 2003, if  
11 SB 1414 or similar legislation is adopted in the same  
12 legislative session or an extension thereof and becomes law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
15 COMMITTEE SUBSTITUTE FOR  
16 Senate Bill 1770

17 Provides for an exemption from public records laws for  
18 personnel information the disclosure of which would impair the  
19 ability of the Institute's governing body to recruit  
20 personnel.

21 Deletes an exemption for certain public records described in  
22 the bill from subpoena, discovery, or introduction into  
23 evidence in civil proceedings.

24 States that the Legislature finds that the disclosure of the  
25 Institute's donor information could have a chilling effect on  
26 donations.

27 States that the Legislature finds that the disclosure of  
28 corporate officer and employee personnel information could  
29 have a chilling effect on attracting qualified personnel.

30 Includes a technical change.  
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