

By the Committees on Governmental Oversight and Productivity;
Education; and Senator Clary

302-2398-03

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, information
9 identifying donors to the institute; providing
10 for specified access to certain information by
11 governmental entities; creating an exemption
12 from public meetings requirements for meetings
13 of the governing board of the not-for-profit
14 corporation at which exempt records are
15 discussed; providing for future review and
16 repeal; providing a statement of public
17 necessity; providing a contingent effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Florida Institute for Human and Machine
23 Cognition, Inc.; public records exemption; public meetings
24 exemption.--

25 (1) The following information held by the Florida
26 Institution for Human and Machine Cognition, Inc., or an
27 authorized subsidiary of the corporation, is confidential and
28 exempt from the provisions of section 24, Article I of the
29 State Constitution and section 119.07(1), Florida Statutes:

30 (a) Material that relate to methods of manufacturer or
31 production, potential trade secrets, patentable material,

1 actual trade secrets as defined in section 688.002, Florida
2 Statutes, or proprietary information received, generated,
3 ascertained, or discovered during the course of research
4 conducted by or through the Florida Institute for Human and
5 Machine Cognition and its not-for-profit corporation and
6 subsidiaries and business transactions resulting from such
7 research.

8 (b) Any information received by the corporation or a
9 subsidiary from a person from another state or nation or the
10 Federal Government which is otherwise confidential or exempt
11 pursuant to that state's or nation's laws or pursuant to
12 federal law.

13 (c) Any information received by the corporation or a
14 subsidiary in the performance of its duties and
15 responsibilities which is otherwise confidential and exempt by
16 law.

17 (d) All identifying information of a donor or
18 prospective donor to the corporation or a subsidiary who
19 wishes to remain anonymous.

20 (2) The corporation or its subsidiary shall permit any
21 governmental entity to inspect or copy confidential or exempt
22 information held by the corporation or its subsidiary that is
23 necessary for that governmental entity to perform its duties
24 and responsibilities. Any governmental entity that is
25 permitted to inspect or copy confidential and exempt
26 information held by the corporation or a subsidiary shall
27 maintain the confidential and exempt status of that
28 information.

29 (3) That portion of a meeting of the corporation, or a
30 subsidiary at which information is presented or discussed that
31 is confidential and exempt pursuant to subsection (1) is

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

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

8 Section 2. The Legislature finds that it is a public
9 necessity that certain records of the Institute for Human and
10 Machine Cognition, or a subsidiary, which records contain
11 proprietary confidential business information be made
12 confidential and exempt. Materials that relate to methods of
13 manufacture or production, actual or potential trade secrets,
14 patentable materials, business transactions, or proprietary
15 information received, generated, ascertained, or discovered
16 during the course of research conducted by the corporation or
17 a subsidiary must be confidential and exempt because the
18 disclosure of such information would create an unfair
19 competitive advantage for persons receiving such information,
20 which would adversely impact the corporation or its
21 subsidiaries. If such information regarding research in
22 progress were released pursuant to a public records request,
23 others would be allowed to take the benefit of the research
24 without compensation or reimbursement to the institute. The
25 Legislature further finds that information received by the
26 corporation or its subsidiaries from a person in another state
27 or nation or the Federal Government which is otherwise
28 confidential or exempt pursuant to the laws of that state or
29 nation or federal law should remain confidential or exempt
30 because the highly confidential nature of research
31 necessitates that the corporation or its subsidiaries be

1 authorized to maintain the status of confidential or exempt
2 information it receives from the sponsors of research. Without
3 the exemptions, the disclosure of confidential and exempt
4 information would place the corporation in an unequal footing
5 in the marketplace as compared with its private research
6 competitors that are not required to disclose confidential and
7 exempt information. The Legislature finds that the disclosure
8 of such information would adversely impact the corporation or
9 a subsidiary from fulfilling the mission of research and
10 education. It is further a public necessity that the
11 institute, its not-for-profit corporation, and subsidiaries
12 have the same confidential protections for other information
13 received in the performance of its duties and obligations
14 which is confidential and exempt by law to put the institute
15 on an equal footing with other public research institutes and
16 ensure that the institute has similar opportunities for
17 success as its private research competitors. In addition, the
18 Legislature further finds that the identity of a donor or
19 prospective donor who wishes to remain anonymous should be
20 confidential and exempt from public disclosure in the same
21 manner provided to the direct support organizations at the
22 state universities in section 1004.28(5), Florida Statutes.
23 This exemption is necessary because the disclosure of such
24 information may adversely impact the institute's ability to
25 receive donations from individuals who request anonymity. The
26 Legislature further finds that it is a public necessity that
27 portions of such meetings at which proprietary confidential
28 business information, including materials that relate to
29 methods of manufacture or production, actual or potential
30 trade secrets, patentable materials, business transactions, or
31 proprietary information received, generated, ascertained, or

1 discovered during the course of research, are being discussed
2 are exempt under public open meeting laws to allow the
3 not-for-profit corporation and its subsidiaries to maintain
4 the confidentiality of this information and prevent an unfair
5 competitive advantage for the persons receiving this
6 information.

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

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 CS/SB 1770

14 Narrows the public records exemption to meet constitutional
15 standards.

16 Removes reference to attorney-client communications, bids or
17 other contractual data, corporate officer and employee
18 personnel information.

19 Removes provision making only meetings at which corporate
20 expenditures are made open. Provides that all meetings are
21 open except for those portions at which records that are
22 exempt are discussed.

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