

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ambler offered the following:

Amendment (with title amendment)

On page 6, lines 4 and 5,
remove: all of said lines

and insert:

Section 4. Subsection (9) is amended and subsection (10)
of section 1004.445, Florida Statutes, is created to read:

1004.445 Florida Alzheimer's Center and Research
Institute.--

(9)(a) The following information is confidential and
exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
of the State Constitution:

1.(a) Personal identifying information relating to clients
of programs created or funded through the Florida Alzheimer's

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28 Center and Research Institute which is held by the institute,
29 the University of South Florida, or the State Board of Education
30 or by persons who provide services to clients of programs
31 created or funded through contracts with the Florida Alzheimer's
32 Center and Research Institute;

33 ~~2.(b)~~ Any medical or health records relating to patients
34 held which may be created or received by the institute; and

35 ~~3.(e)~~ Proprietary confidential business information. As
36 used in this subparagraph, the term "proprietary confidential
37 business information" means information, regardless of its form
38 or characteristics, which is owned or controlled by the
39 institute; is intended to be and is treated by the institute as
40 private and the disclosure of which would harm the business
41 operations of the institute; has not been intentionally
42 disclosed by the institute unless pursuant to law, an order of a
43 court or administrative body, a legislative proceeding pursuant
44 to s. 5, Art. III of the State Constitution, or a private
45 agreement that provides that the information may be released to
46 the public; and which is information concerning:

47 a. Materials that relate to methods of manufacture or
48 production, potential trade secrets, potentially patentable
49 material, actual trade secrets as defined in s. 688.002, or
50 proprietary information received, generated, ascertained, or
51 discovered during the course of research conducted by or through
52 the institute and business transactions resulting from such
53 research;

54 ~~b.(d)~~ The identity of a donor or prospective donor to the
55 institute ~~Florida Alzheimer's Center and Research Institute~~ who

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56 wishes to remain anonymous, and all information identifying such
57 donor or prospective donor;

58 c.(e) Any information received by the institute in the
59 performance of its duties and responsibilities which is
60 otherwise confidential and exempt by law; ~~and~~

61 d.(f) Any information received by the institute from a
62 person from this or another state or nation or the Federal
63 Government which is otherwise exempt or confidential ~~or exempt~~
64 pursuant to this or another ~~that~~ state's or nation's laws or
65 pursuant to federal law.

66 e. Internal auditing controls and reports of internal
67 auditors;

68 f. Contracts for managed-care arrangements, including
69 preferred provider organization contracts, health maintenance
70 organization contracts, and exclusive provider organization
71 contracts, and any documents directly relating to the
72 negotiation, performance, and implementation of any such
73 contracts for managed-care arrangements;

74 g. Bids or other contractual data, banking records, and
75 credit agreements the disclosure of which would impair the
76 efforts of the institute to contract for goods or services on
77 favorable terms;

78 h. Information relating to private contractual data, the
79 disclosure of which would impair the competitive interest of the
80 provider of the information;

81 i. Corporate officer and employee personnel information;

82 j. Information relating to the proceedings and records of
83 the credentialing panels and committees and of the governing
84 board of the institute relating to credentialing;

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85 k. Minutes of meetings of the governing board of the
86 institute, except minutes of meetings open to the public
87 pursuant to subsection (10); and

88 1. Information that reveals plans for marketing services
89 that the institute reasonably expects to be provided by
90 competitors.

91
92 As used in this subparagraph, the term "managed care" means
93 systems or techniques generally used by third-party payors or
94 their agents to affect access to and control payment for health
95 care services. Managed-care techniques most often include one
96 or more of the following: prior, concurrent, and retrospective
97 review of the medical necessity and appropriateness of services
98 or site of services; contracts with selected health care
99 providers; financial incentives or disincentives related to the
100 use of specific providers, services, or service sites;
101 controlled access to and coordination of services by a case
102 manager; and payor efforts to identify treatment alternatives
103 and modify benefit restrictions for high-cost patient care.

104 (b) The Auditor General, the Office of Program Policy
105 Analysis and Government Accountability, and the State Board of
106 Education, pursuant to their oversight and auditing functions,
107 must be given access to all proprietary confidential business
108 information upon request and without subpoena and must maintain
109 the confidentiality of information so received.

110 (c) Any governmental entity that demonstrates a need to
111 access such confidential and exempt information in order to
112 perform its duties and responsibilities shall have access to
113 such information and shall otherwise keep such information

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114 confidential and exempt. ~~This section is subject to the Open~~
115 ~~Government Sunset Review Act of 1995 in accordance with s.~~
116 ~~119.15 and shall stand repealed on October 2, 2006, unless~~
117 ~~reviewed and saved from repeal through reenactment by the~~
118 ~~Legislature.~~

119 (10) Meetings or portions of meetings of the governing
120 board of the Florida Alzheimer's Center and Research Institute
121 at which information is discussed that is made confidential and
122 exempt pursuant to subsection (9) of this section is exempt from
123 s. 286.011 and s. 24(b), Art. I of the State Constitution.

124 Section 5. Subsections (9) and (10) of s. 1004.445, F.S.,
125 are subject to the Open Government Sunset Review Act of 1995 in
126 accordance with s. 119.15, F.S., and shall stand repealed on
127 October 2, 2008, unless reviewed and saved from repeal through
128 reenactment by the Legislature.

129 Section 6. The Legislature finds that it is a public
130 necessity that internal auditing controls and reports of
131 internal auditors; contracts for managed-care arrangements and
132 any documents directly relating to the negotiation, performance,
133 and implementation of any such contracts for managed-care
134 arrangements; bids or other contractual data, banking records,
135 and credit agreements; information relating to private
136 contractual data; corporate officer and employee personnel
137 information; information relating to the proceedings and records
138 of the credentialing panels and committees and of the governing
139 board of the Florida Alzheimer's Center and Research Institute
140 relating to credentialing; minutes of meetings of the governing
141 board of the institute; and information that reveals plans for
142 marketing services that the institute reasonably expects to be

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143 provided by competitors be made confidential and exempt from
144 public disclosure. The institute must compete directly with its
145 private-sector counterparts. Its economic survival depends on
146 the institute's ability to so compete. As such, these
147 exemptions are necessary because release of such information and
148 records would adversely impact the institute in the competitive
149 health care and medical research environment. Disclosure of
150 such information and records would place the institute on an
151 unequal footing in the marketplace as compared with private
152 health care providers that are not required to disclose such
153 confidential information and records. The highly confidential
154 nature of Alzheimer-related research discoveries necessitates
155 that the institute be authorized to maintain confidential
156 information it receives from, or generates for, the sponsors of
157 its research. Accordingly, disclosure of such information and
158 records would impede the effective and efficient administration
159 of the Florida Alzheimer's Center and Research Institute and
160 would create an unfair competitive advantage for persons or
161 entities receiving such information. Also, such information and
162 records contain information of a sensitive, personal nature
163 regarding corporate officers and employees. Disclosure of such
164 information could be harmful to the officer or employee. It is
165 likewise a public necessity that the meetings of the governing
166 board of the institute be closed in order to protect the
167 competitive interest of the institute and to guarantee the
168 ability of the governing board to fulfill its Alzheimer's
169 disease research and teaching mission for the benefit of the
170 public. Closing access to such board meetings enables the
171 boards to be more open and frank in the information so provided

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172 and discussed without the attendant fear that honest and
173 truthful exchange of information will result in the public
174 dissemination of information discussed that could be used to
175 harm the institute and its members. Furthermore, disclosing
176 information and records made confidential and exempt pursuant to
177 the institute's public records exemption via an open meeting
178 defeats the purpose of the public records exemption.

179 Section 7. This act shall take effect upon becoming a law.
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181
182 ===== T I T L E A M E N D M E N T =====

183 On page 1, lines 2 through 18,
184 remove: all of said lines

185
186 and insert:

187
188 An act relating to public records and public meetings
189 exemptions; amending s. 1004.43, F.S.; expanding the
190 public records exemption for proprietary confidential
191 business information owned or controlled by the H. Lee
192 Moffitt Cancer Center and Research Institute to include
193 information relating to methods of manufacture or
194 production, potential trade secrets, potentially
195 patentable material, and proprietary information received,
196 generated, ascertained, or discovered during the course of
197 research, and business transactions resulting from such
198 research; expanding the public records exemption to
199 include information received from this or another state or
200 nation or the Federal Government which is otherwise exempt

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201 or confidential pursuant to the laws of this or another
202 state or nation or pursuant to federal law; providing for
203 future review and repeal; providing a statement of public
204 necessity; amending s. 1004.445, F.S.; creating a public
205 records exemption for proprietary confidential business
206 information; providing types of information that is deemed
207 proprietary confidential business information; providing a
208 definition of managed care; creating a public meetings
209 exemption for the governing board of the Florida
210 Alzheimer's Center and Research Institute; providing for
211 future review and