

By the Committees on Governmental Oversight and Productivity;  
and Banking and Insurance

302-2139-03

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           440.108, F.S., which provides an exemption from  
4           public-records requirements for investigatory  
5           records of the Department of Insurance  
6           concerning an employer's compliance with the  
7           Workers' Compensation Law; clarifying that a  
8           record containing personal identifying  
9           information of a confidential source remains  
10          confidential after an investigation is  
11          complete; providing for disclosure of certain  
12          confidential information to a law enforcement  
13          agency or administrative agency; requiring that  
14          the receiving agency maintain the  
15          confidentiality of the information; reenacting  
16          the exemption and removing the repeal thereof  
17          scheduled under the Open Government Sunset  
18          Review Act of 1995; providing an effective  
19          date.

21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Notwithstanding the repeal scheduled for  
24           October 2, 2003, under the Open Government Sunset Review Act  
25           of 1995, section 440.108, Florida Statutes, is reenacted and  
26           amended to read:

27           440.108 Investigatory records relating to workers'  
28           compensation employer compliance; confidentiality.--

29           (1) All investigatory records ~~of the department~~ made  
30           or received pursuant to s. 440.107 and any records necessary  
31           to complete an investigation held by the department are

1 confidential and exempt from the provisions of s. 119.07(1)  
2 and s. 24(a), Art. I of the State Constitution until the  
3 investigation is completed or ceases to be active. For  
4 purposes of this section, an investigation is considered  
5 "active" while such investigation is being conducted by the  
6 department with a reasonable, good faith belief that it may  
7 lead to the filing of administrative, civil, or criminal  
8 proceedings. An investigation does not cease to be active if  
9 the agency is proceeding with reasonable dispatch and there is  
10 a good faith belief that action may be initiated by the agency  
11 or other administrative or law enforcement agency.

12       (2) After an investigation is completed or ceases to  
13 be active, information in records relating to the  
14 investigation remains ~~remain~~ confidential and exempt from the  
15 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
16 Constitution if disclosure of that information would:

- 17           (a) Jeopardize the integrity of another active  
18 investigation;
- 19           (b) Reveal a trade secret, as defined in s. 688.002;
- 20           (c) Reveal business or personal financial information;
- 21           (d) Reveal personal identifying information regarding  
22 ~~the identity of~~ a confidential source;
- 23           (e) Defame or cause unwarranted damage to the good  
24 name or reputation of an individual or jeopardize the safety  
25 of an individual; or
- 26           (f) Reveal investigative techniques or procedures.

27       (3) The department may provide information that is  
28 confidential and exempt under this section to any law  
29 enforcement agency or administrative agency for use in the  
30 performance of its official duties. An agency that receives  
31 confidential information from the department shall maintain

1 the confidential and exempt status of that information as long  
2 as it would otherwise remain confidential.

3 ~~(2) This exemption is subject to the Open Government~~  
4 ~~Sunset Review Act of 1995 in accordance with s. 119.15, and~~  
5 ~~shall stand repealed on October 2, 2003, unless reviewed and~~  
6 ~~saved from repeal through reenactment by the Legislature.~~

7 Section 2. This act shall take effect October 1, 2003.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
10 COMMITTEE SUBSTITUTE FOR  
11 SB 284

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12 Modifies the bill to reflect that investigatory records that  
13 are held by the department may not have been created by the  
14 department.

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