

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Seiler offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause, and insert:

Section 1. Section 288.145, Florida Statutes, is created to read:

288.145 Scripps Florida Funding Corporation and Scripps Florida; public records exemption; public meetings exemption.--

(1) The following information held by Scripps Florida, a not-for-profit entity, or a division, subsidiary, affiliate, or entity formed by the Scripps Research Institute to establish a state-of-the-art biomedical research campus in the state, hereinafter referred to as the "grantee," as defined in s. 288.955, or received from the grantee and held by the Scripps Florida Funding Corporation as created by s. 288.955, is

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27 confidential and exempt from the provisions of s. 119.07(1) and
28 s. 24(a), Art. I of the State Constitution:

29 (a) Materials that relate to methods of manufacture or
30 production unique to the grantee or Scripps Florida Funding
31 Corporation, potential trade secrets such as patentable material
32 for which a patent is pending, patentable material, actual trade
33 secrets as defined in s. 688.002, or proprietary information
34 which is patented or patentable or trademarked or capable of
35 being trademarked or which constitutes a trade secret, received,
36 generated, ascertained, or discovered during the course of
37 research conducted by or through the grantee, and business
38 transactions resulting from such research that could result in
39 an unfair competitive advantage to others.

40 (b) Any information received from a person from another
41 state or nation or the Federal Government which is otherwise
42 exempt or confidential pursuant to the laws of that state or
43 nation or pursuant to federal law.

44 (2) Any information received by the grantee or Scripps
45 Florida Funding Corporation in the performance of its duties and
46 responsibilities which is otherwise confidential and exempt by
47 law is confidential and exempt from the provisions of s.
48 119.07(1) and s. 24(a), Art. I of the State Constitution.

49 (3) The following information held by the grantee is
50 confidential and exempt from the provisions of s. 119.07(1) and
51 s. 24(a), Art. I of the State Constitution:

52 (a) Personal identifying information relating to
53 individuals who participate in human trials or experiments of
54 programs created or funded through the grantee.

55 (b) Any medical or health records relating to patients.

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56 (4) That portion of a meeting of the Scripps Florida
57 Funding Corporation at which information is presented or
58 discussed that is confidential and exempt pursuant to
59 subsections (1) and (2) is exempt from the provisions of s.
60 286.011 and s. 24(b), Art. I of the State Constitution.

61 (5) The Auditor General, the Office of Program Policy
62 Analysis and Government Accountability, and the Office of
63 Tourism, Trade, and Economic Development, pursuant to their
64 oversight and auditing functions, shall be given access to all
65 information made confidential and exempt pursuant to subsections
66 (1), (2), and (3), upon request and without subpoena, and shall
67 maintain the confidential and exempt status of the information
68 so received.

69 (6) Any audit or oversight report generated pursuant to
70 subsection (5), when final, shall be a public record. The audit
71 and oversight workpapers and notes are confidential and exempt
72 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
73 State Constitution; however, those workpapers necessary to
74 support the computations in the final audit report may be made
75 available by a majority vote of the Legislative Auditing
76 Committee after a public hearing showing proper cause. The audit
77 or oversight workpapers and notes shall be retained by the
78 entity generating the report until no longer useful, after which
79 time the workpapers and notes may be destroyed.

80 Section 2. Section 288.145, Florida Statutes, is subject
81 to the Open Government Sunset Review Act of 1995 in accordance
82 with s. 119.15, Florida Statutes, and shall stand repealed on
83 October 2, 2009, unless reviewed and saved from repeal through
84 reenactment by the Legislature.

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85 Section 3. The Legislature finds that it is a public
86 necessity that certain information held by Scripps Florida, a
87 not-for-profit entity, or a division, subsidiary, affiliate, or
88 entity formed by the Scripps Research Institute to establish a
89 state-of-the-art biomedical research campus in the state,
90 hereinafter referred to as the "grantee," as defined in s.
91 288.955, Florida Statutes, or received from the grantee and held
92 by the Scripps Florida Funding Corporation as created in s.
93 288.955, Florida Statutes, which information is proprietary
94 confidential business information, be held confidential and
95 exempt from public records requirements. Materials and
96 information held by the grantee or obtained from the grantee and
97 held by the corporation concerning methods of manufacture or
98 production unique to the grantee or Scripps Florida Funding
99 Corporation, actual trade secrets, potential trade secrets such
100 as patentable material for which a patent is pending, patentable
101 materials, or proprietary information which is patented or
102 patentable or trademarked or capable of being trademarked or
103 which constitutes a trade secret, received, generated,
104 ascertained, or discovered during the course of research
105 conducted by or through the grantee, and business transactions
106 resulting from such research that could result in an unfair
107 competitive advantage to others must be held confidential and
108 exempt from public records requirements because the disclosure
109 of such information would create an unfair competitive advantage
110 for the person receiving such information. Such an advantage
111 would adversely impact the grantee. If confidential and exempt
112 information regarding research in progress were released
113 pursuant to a public records request, others would be allowed to

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114 derive benefit from the research without compensation or
115 reimbursement to the grantee. The Legislature further finds that
116 information obtained by the grantee or the corporation from a
117 person in another state or nation or the Federal Government
118 which is otherwise exempt or confidential pursuant to the laws
119 of that state or nation or pursuant to federal law should remain
120 exempt or confidential because the highly confidential nature of
121 research necessitates that the grantee or corporation be
122 authorized to maintain the status of such information it
123 receives. Without the exemptions provided for in this act, the
124 disclosure of confidential and exempt information would place
125 the grantee on an unequal footing in the marketplace as compared
126 with other research competitors whose information is kept
127 confidential and exempt. The Legislature finds that disclosure
128 of confidential and exempt information would adversely impact
129 the grantee's fulfilling the mission of research. It is further
130 a public necessity that the grantee and the corporation have the
131 same confidential protections for other information received in
132 the performance of their duties and responsibilities, which is
133 otherwise confidential and exempt by law, in order to put the
134 grantee on an equal footing with other public research
135 institutes and to ensure that the grantee has similar
136 opportunities for success as its other research competitors. The
137 Legislature further finds that it is a public necessity that
138 personal, medical, or health information held by the grantee
139 concerning individuals who participate in human trials or
140 experiments of programs created or funded through the grantee or
141 patients of the grantee be made confidential and exempt from
142 public disclosure because access to such information would be an

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143 unwarranted invasion of the individual's or patient's right to
144 privacy. Also, misuse of such sensitive personal, medical, or
145 health information could be detrimental to the health, safety,
146 or welfare of the individual or patient. The Legislature further
147 finds that it is a public necessity that portions of meetings of
148 the corporation at which confidential and exempt information is
149 presented or discussed be exempt from public meetings
150 requirements in order to allow the corporation to maintain the
151 confidential and exempt status of that information and to
152 prevent an unfair competitive advantage for the persons
153 receiving this information. Moreover, disclosing information
154 made confidential and exempt pursuant to the corporation's
155 public records exemption via an open meeting defeats the purpose
156 of the public records exemption. The Legislature also finds that
157 it is a public necessity that information obtained from the
158 grantee and the corporation and held by the Auditor General, the
159 Office of Program Policy Analysis and Government Accountability,
160 and the Office of Tourism, Trade, and Economic Development be
161 confidential and exempt from public disclosure because of the
162 highly confidential nature of research. Release of such
163 information would place the grantee on an unequal footing in the
164 marketplace as compared with other private research competitors
165 whose information is kept confidential and exempt. Finally, the
166 Legislature finds that it is a public necessity that audit or
167 oversight workpapers and notes obtained by the grantee and held
168 by the Auditor General, the Office of Program Policy Analysis
169 and Government Accountability, and the Office of Tourism, Trade,
170 and Economic Development be confidential and exempt from public
171 disclosure because such workpapers and notes are incomplete and

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172 could be misleading. Release of inaccurate or incomplete
173 information could be detrimental to the grantee or the Scripps
174 Florida Funding Corporation.

175 Section 4. This act shall take effect upon becoming a law
176 if HB 1-E or similar legislation is adopted in the same
177 legislative session or an extension thereof and becomes law.

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180 ===== T I T L E A M E N D M E N T =====

181 Remove the entire title, and insert:

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184 A bill to be entitled
185 An act relating to public records and public meetings
186 exemptions; creating s. 288.145, F.S.; creating an exemption
187 from public records requirements for specified materials, actual
188 and potential trade secrets, patentable material, specified
189 proprietary information received, generated, ascertained, or
190 discovered during the course of research conducted by or through
191 Scripps Florida, a not-for-profit entity, or a division,
192 subsidiary, affiliate, or entity formed by the Scripps Research
193 Institute to establish a state-of-the-art biomedical research
194 campus in the state, hereinafter referred to as the "grantee,"
195 specified business transactions resulting from such research,
196 and information received from a person from another state or
197 nation or the Federal Government which is otherwise exempt or
198 confidential, held by the grantee or received from the grantee
199 and held by the Scripps Florida Funding Corporation; creating an
200 exemption from public records requirements for information

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201 received by the grantee or Scripps Florida Funding Corporation
202 in the performance of its duties and responsibilities and which
203 is otherwise confidential and exempt; creating an exemption from
204 public records requirements for personal identifying information
205 held by the grantee relating to individuals who participate in
206 human trials or experiments of programs created or funded
207 through the grantee and medical or health records relating to
208 patients; creating an exemption from public meetings
209 requirements for portions of meetings of the Scripps Florida
210 Funding Corporation at which confidential and exempt information
211 is presented or discussed; providing for access to confidential
212 and exempt information by specified agencies; providing that
213 specified audits or oversight reports are public records when
214 final; creating a public records exemption for audit and
215 oversight workpapers and notes; providing for retention of
216 workpapers and notes for a specified period; providing for
217 future review and repeal; providing a statement of public
218 necessity; providing a contingent effective date.