

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7E (PCB SA 03E-01) Public Records and Meetings/Scripps Florida Funding Corp  
**SPONSOR(S):** State Administration and Benson  
**TIED BILLS:** HB 1E **IDEN./SIM. BILLS:** None

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>5 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

Scripps Florida and Scripps Florida Funding Corporation are created by separate bill for purpose of providing economic incentives for biomedical research in this state.

This bill creates a public records exemption applicable to Scripps Florida and Scripps Florida Funding Corporation (corporation). In general, the information made confidential and exempt includes: medical and health records, trade secrets, proprietary confidential business information, and audit and oversight workpapers and notes. This bill also creates a public meetings exemption for portions of corporation meetings wherein confidential and exempt information is presented or discussed.

This bill provides for future review and repeal of the exemptions, provides a statement of public necessity, and provides a contingent effective date.

This bill does not appear to have a fiscal impact on state or local governments.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0007E.sa.doc  
**DATE:** October 22, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Not applicable.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

By separate bill, Scripps Florida and Scripps Florida Funding Corporation are created. The Scripps Research Institute is a biomedical research institute located in California. The Scripps Research Institute intends to create an east coast facility called Scripps Florida. The Scripps Florida Funding Corporation (corporation) is a private not-for-profit corporation. The corporation will be organized to receive, hold, invest, administer, and disburse funds appropriated by the Legislature to Scripps Florida for purposes of biomedical research.

##### Effect of Bill

This bill creates a public records exemption for the following information held by Scripps Florida (grantee<sup>1</sup>) and the Scripps Florida Funding Corporation (corporation):

- Information relating to methods of manufacture or production, potential and actual trade secrets, patentable material, or proprietary information received, generated, ascertained, or discovered during the course of research conducted by the grantee.
- Business transactions resulting from such research.
- Information received by the grantee or the corporation from a person in another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law.

This bill also creates a public records exemption for information received by the grantee or the corporation in the performance of its duties and responsibilities which is otherwise confidential and exempt from public disclosure. Personal identifying information relating to clients of the grantee and medical records relating to patients of the grantee are also confidential and exempt from public disclosure.

This bill provides for an exception to the exemption for the Auditor General, the Office of Program Policy Analysis and Government Accountability (OPPAGA), and the Office of Tourism, Trade, and Economic Development (OTTED), pursuant to their oversight and auditing functions. The receiving entity must maintain the confidential and exempt status of the information received.

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<sup>1</sup> Section 288.955, F.S., created by separate bill, provides that the "grantee" is "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 this state."

This bill also provides that any final audit or oversight report generated by the Auditor General, OPPAGA, or OTTED, is a public record; although audit and oversight workpapers and notes are confidential and exempt. The Legislative Auditing Committee may, by majority vote, make available those workpapers necessary to support the computations in the final audit report after a public hearing showing proper cause. The entity generating the final report must retain the audit or oversight workpapers and notes until no longer useful.

This bill creates a public meetings exemption for that portion of a corporation meeting at which confidential and exempt information is presented or discussed.

Finally, this bill provides for future review and repeal of the exemptions, provides a statement of public necessity, and provides a contingent effective date.

C. SECTION DIRECTORY:

Section 1 creates a public records exemption for certain information held by the grantee and the corporation; creates a public meetings exemption for the corporation; provides an exception to the exemption; and creates a public records exemption for audit and oversight workpapers and notes held by the Auditor General, OPPAGA, and OTTED.

Section 2 provides for future review and repeal.

Section 3 provides a statement of public necessity.

Section 4 provides a contingent effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested documents and information, and must examine every requested document or piece of information to determine if a public records exemption

prohibits release of the document or information. There is likely no marginal fiscal impact to a single public records exemption; in that the location and examination process remains whether or not a particular public records exemption exists.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not affect municipal or county government.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Public Records and Public Meetings Laws**

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. Article I, s. 24(b), Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of the executive branch and local government be open and noticed to the public.

The Legislature may, however, provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24, Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records and meetings is also addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record, and s. 286.011, F.S., requires that all state, county, or municipal meetings be open and noticed to the public. Furthermore, the Open Government Sunset Review Act of 1995<sup>2</sup> provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>2</sup> Section 119.15, F.S.