

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Seiler offered the following:

Amendment (with title amendment)

On page 1, line 28,
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

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28 Florida Funding Corporation as created by s. 288.955, is
29 confidential and exempt from the provisions of s. 119.07(1) and
30 s. 24(a), Art. I of the State Constitution:

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

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

46 (2) Any information received by the grantee or Scripps
47 Florida Funding Corporation in the performance of its duties and
48 responsibilities which is otherwise confidential and exempt by
49 law is confidential and exempt from the provisions of s.
50 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

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

58 (4) That portion of a meeting of the Scripps Florida
59 Funding Corporation at which information is presented or
60 discussed that is confidential and exempt pursuant to
61 subsections (1) and (2) is exempt from the provisions of s.
62 286.011 and s. 24(b), Art. I of the State Constitution.

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

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

82 Section 2. Section 288.145, Florida Statutes, is subject
83 to the Open Government Sunset Review Act of 1995 in accordance
84 with s. 119.15, Florida Statutes, and shall stand repealed on

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85 October 2, 2009, unless reviewed and saved from repeal through
86 reenactment by the Legislature.

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

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

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

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172 and Economic Development be confidential and exempt from public
173 disclosure because such workpapers and notes are incomplete and
174 could be misleading. Release of inaccurate or incomplete
175 information could be detrimental to the grantee or the Scripps
176 Florida Funding Corporation.

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

180

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

182 On page 1, lines 2 through 25,
183 remove: all of said lines,

184

185 and insert:

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

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