

By the Committee on Governmental Oversight and Productivity;
and Senators Atwater and Klein

302-659-04

1 A bill to be entitled

2 An act relating to public records and meetings;

3 creating s. 288.9551, F.S.; creating an

4 exemption from public records and public

5 meetings requirements for certain information

6 held by the Scripps Florida Funding Corporation

7 or the Office of Tourism, Trade, and Economic

8 Development; creating an exemption from public

9 records requirements for specified research

10 materials and actual and potential trade

11 secrets; creating an exemption from public

12 records requirements for other proprietary

13 business information; creating an exemption for

14 information made confidential under the laws of

15 other states or nations or pursuant to federal

16 law; creating an exemption from public meetings

17 requirements for meetings of the governing

18 board of directors of the Scripps Florida

19 Funding Corporation at which exempt records are

20 presented or discussed; providing for

21 interagency exchange of confidential

22 information; providing a penalty; providing for

23 future review and repeal; providing a statement

24 of public necessity; providing a contingent

25 effective date.

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

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29 Section 1. Section 288.9551, Florida Statutes, is

30 created to read:

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1 288.9551 Exemptions from public records and meetings
2 requirements; Scripps Florida Funding Corporation, The Scripps
3 Research Institute or grantee, and the Office of Tourism,
4 Trade, and Economic Development.--

5 (1) As used in this section, the term "grantee" has
6 the same meaning ascribed in s. 288.955.

7 (2) The following information held by the Scripps
8 Florida Funding Corporation or the Office of Tourism, Trade,
9 and Economic Development under s. 288.955 is confidential and
10 exempt from s. 24, Art. I of the State Constitution and s.
11 119.07(1):

12 (a) Materials that relate to methods of manufacture or
13 production, potential trade secrets, patentable material,
14 actual trade secrets as defined in s. 688.002, or proprietary
15 information received, generated, ascertained, or discovered by
16 or through the grantee or The Scripps Research Institute.

17 (b) Federal employer identification numbers;
18 unemployment account numbers; Florida sales tax registration
19 numbers; agreements and proposals to receive funding,
20 including grant applications, but specifically excluding the
21 agreement by the Scripps Florida Funding Corporation to
22 release funds to The Scripps Research Institute or grantee;
23 materials that relate to the recruitment of personnel; and the
24 identity of donors or potential donors.

25 (c) Any information received from a person or another
26 state or nation or the Federal Government which is otherwise
27 confidential or exempt pursuant to that state's or nation's
28 laws or pursuant to federal law.

29 (d) Any information regarding the conduct of the
30 operations of The Scripps Research Institute or grantee which
31 is otherwise confidential and exempt by law.

1 (e) Personal identifying information of individuals
2 who participate in human trials or experiments.

3 (f) Any medical or health records relating to
4 participants in clinical trials.

5 (2) That portion of a meeting of the board of
6 directors of the Scripps Florida Funding Corporation at which
7 information is presented or discussed which is confidential
8 and exempt under subsection (1) is closed to the public and
9 exempt from s. 24(b), Art. I of the State Constitution and s.
10 286.011.

11 (3) Any records generated during those portions of the
12 board meetings which are closed to the public under subsection
13 (2), such as minutes, tape recordings, videotapes,
14 transcriptions, or notes are confidential and exempt from s.
15 24, Art. I of the State Constitution and s. 119.07(1).

16 (4) Information that is made exempt and confidential
17 under this section shall be released to public employees
18 exclusively for the performance of their public duties. Public
19 employees receiving this confidential information must
20 maintain the confidentiality of the information. Any such
21 public employee receiving confidential information who
22 violates this subsection commits a misdemeanor of the first
23 degree, punishable as provided by s. 775.082 or s. 775.083.

24 (5) The Scripps Research Institute or grantee is
25 defined in s. 288.955, as a private, not-for-profit entity. If
26 a court nonetheless determines that The Scripps Research
27 Institute or grantee is acting on behalf of an agency,
28 pursuant to its contract under s. 288.955, such that it is
29 subject to s. 24(a), Art. I of the State Constitution and s.
30 119.07(1), the exemptions from the public records and meetings
31 requirements provided by this section shall apply to the same

1 documents and meetings when held by The Scripps Research
2 Institute or grantee.

3 (6) This section 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, 2009, unless reviewed and
6 saved from repeal through reenactment by the Legislature.

7 Section 2. (1) The Legislature finds that it is a
8 public necessity that certain records held by the Scripps
9 Florida Funding Corporation or the Office of Tourism, Trade,
10 and Economic Development which contain proprietary business
11 and scientific information be made confidential and exempt
12 from public disclosure. The Legislature also finds that, if a
13 court determines that The Scripps Research Institute or
14 grantee, which are private, not-for-profit entities, are
15 acting on behalf of an agency, it is a public necessity that
16 the exemptions created in this act apply to the same documents
17 and meetings when held by The Scripps Research Institute or
18 grantee. The Legislature finds that the economic development
19 of the state is greatly enhanced by the diversification of the
20 industries that are located in the state. In an effort that
21 will greatly benefit the state through economic stimulation,
22 the diversification of industries in the state, and job
23 creation, the Legislature has created the Scripps Florida
24 Funding Corporation to provide a substantial capital
25 investment to attract and assist a private, nonprofit research
26 organization that promotes research and development in the
27 science of biotechnology to develop the means to predict,
28 prevent, treat, or cure diseases that affect Floridians and
29 others.

30 (2) In particular, the Legislature has authorized the
31 release, under the terms specified in section 288.955, Florida

1 Statutes, of an appropriation of \$310 million to The Scripps
2 Research Institute or a grantee as defined in section 288.955,
3 Florida Statutes, to establish a new research facility in
4 Florida, to create new jobs, and to reinvest in a Florida
5 state trust fund a significant portion of the foregoing
6 appropriation from the net proceeds of certain grants to
7 research activities it conducts in Florida, and, in
8 cooperation with the economic development agencies of the
9 state and the state university system, to seek to create new
10 business and academic opportunities in this state. The
11 Legislature finds that the ability of these entities to
12 conduct meaningful scientific research and meet their
13 obligations will be significantly impaired if certain
14 proprietary business information or scientific research as
15 discussed and defined in this act is not made confidential and
16 exempt from public disclosure. Specifically, the Legislature
17 finds that it is a public necessity to make exempt and
18 confidential proprietary business information or scientific
19 research that relates to methods of manufacture or production,
20 potential trade secrets, patentable material, actual trade
21 secrets as defined in section 688.002, Florida Statutes, or
22 proprietary information received, generated, ascertained, or
23 discovered by or through The Scripps Research Institute or the
24 grantee because the disclosure of this information would
25 negate the benefit expected by exposing valuable proprietary
26 work to competitors. Disclosure of this information would
27 create an unfair competitive advantage for competitors and
28 others in receipt of the information and would adversely
29 impact The Scripps Research Institute or grantee by negatively
30 affecting the revenues generated by its research. In turn,
31 this would negatively affect the financial and other

1 substantial interests of the state, its economy, and the
2 academic community.

3 (3) The Legislature also finds that it is a public
4 necessity to make exempt and confidential federal employer
5 identification numbers; unemployment account numbers; Florida
6 sales tax registration numbers; agreements and proposals to
7 receive funding, including grant applications; and materials
8 that relate to the recruitment of personnel. If this
9 information is not protected, it could adversely affect the
10 ability to attract the highest quality scientists and
11 researchers to The Scripps Research Institute or grantee by
12 permitting competitors to determine what the terms of
13 employment negotiations for scientists and researchers are and
14 to outbid The Scripps Research Institute or grantee. This
15 would adversely affect the program and defeat its purpose.

16 (4) The Legislature also finds that it is a public
17 necessity to protect the identity of donors and potential
18 donors to The Scripps Research Institute or grantee because
19 some donors wish to remain anonymous and if their identity is
20 not protected they would not make donations. Such donations
21 provide additional funding for research and the identity of
22 the donors must be protected in order to enhance and ensure
23 the continuation of such funding and donations.

24 (5) The Legislature also finds that it is a public
25 necessity to make confidential and exempt from public
26 disclosure any information received from a person, another
27 state, the Federal Government, or another nation which is
28 confidential or exempt from disclosure pursuant to the laws of
29 that state, nation, or the Federal Government. Failure to
30 protect such information would inhibit scientific research by
31 The Scripps Research Institute or grantee because other

1 persons, states, the Federal Government, or nations could be
2 unwilling to share information and research if it could be
3 released. Without protecting such information, The Scripps
4 Research Institute or grantee would be on an unequal footing
5 in the biomedical industry as compared with research
6 competitors that are not required to disclose confidential and
7 exempt information. Further, the Legislature also finds that
8 it is a public necessity to make exempt and confidential any
9 information regarding the operation of The Scripps Research
10 Institute or grantee which is exempt from public disclosure or
11 confidential by law for the same reasons as stated in this
12 act.

13 (6) The Legislature also finds that it is a public
14 necessity to make confidential and exempt from public
15 disclosure personal identifying information of individuals who
16 participate in human trials or experiments and any medical or
17 health records relating to patients, participants, or clients
18 which are held by the Scripps Florida Funding Corporation, The
19 Scripps Research Institute or grantee, or the Office of
20 Tourism, Trade, and Economic Development. Compilation of this
21 information is necessary to conduct scientific research but
22 could be damaging to those persons who have volunteered or
23 otherwise agreed to participate. Such persons might be denied
24 health insurance, suffer employment discrimination, and
25 experience other social problems if this information were to
26 be made public. If potential volunteers, patients, or clients
27 feared that such consequences could be suffered by
28 participating in human trials and other scientific research,
29 they might refuse to participate, which would adversely affect
30 biomedical research by The Scripps Research Institute or

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1 grantee and place those entities on an unequal footing with
2 other research institutes that protect this information.

3 (7) Similarly, the Legislature finds that the ability
4 of The Scripps Research Institute or grantee to conduct
5 meaningful scientific research and meet its obligations under
6 section 288.955, Florida Statutes, will be impaired
7 significantly if meetings held by the Scripps Florida Funding
8 Corporation, The Scripps Research Institute or grantee, or the
9 Office of Tourism, Trade, and Economic Development at which
10 the records and information made confidential and exempt from
11 public disclosure by this act are discussed are not closed.
12 Failure to protect that portion of meetings during which such
13 protected records and information are discussed would defeat
14 the exemption created by this act. Further, the Legislature
15 finds that records generated during those portions of meetings
16 which are closed, and the minutes, tape recordings,
17 videotapes, transcriptions, or notes, must be protected for
18 the same reasons that those portions of the meetings are
19 closed.

20 (8) The Legislature also finds that, given the size of
21 the appropriation made to facilitate this program, the state
22 has a substantial financial interest in the success of this
23 program.

24 Section 3. This act shall take effect on the same date
25 that Senate Bill 6-E, or similar legislation takes effect, if
26 such legislation is enacted in the same legislative session,
27 or an extension thereof, and becomes law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 8-E

Ties the exemptions and the stated bases for the exemptions more closely together.

Exempts personal identifying information and medical and health records of volunteers and other participants in human trials.

Clarifies that the agreement to release funds to The Scripps Research Institute or grantee is not exempt.

Includes The Scripps Research Institute within the exemption in the event that a court determines it is acting on behalf of the State.