

Bill No. SB 2922

Amendment No. \_\_\_\_ Barcode 182278

CHAMBER ACTION

Senate

House

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Senator Crist moved the following amendment:

**Senate Amendment (with title amendment)**

On page 6, between lines 10 and 11,

insert:

Section 4. Subsection (9) of section 1004.445, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

1004.445 Florida Alzheimer's Center and Research Institute.--

(9)(a) The following information is confidential and exempt from the provisions of s. 119.07(1) and s. 24, Art. I of the State Constitution:

~~1.~~(a) Personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's Center and Research Institute which is held by the institute, the University of South Florida, or the State Board of Education or by persons who provide services to clients of programs created or funded through contracts with the Florida Alzheimer's Center and Research Institute;

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1           ~~2.(b)~~ Any medical or health records relating to  
2 patients which may be created or received by the institute;

3           3. Proprietary confidential business information. As  
4 used in this subparagraph, the term "proprietary confidential  
5 business information" means information, regardless of its  
6 form or characteristics, which is owned or controlled by the  
7 institute; is intended to be and is treated by the institute  
8 as private and the disclosure of which would harm the business  
9 operations of the institute; has not been intentionally  
10 disclosed by the institute unless pursuant to law, an order of  
11 a court or administrative body, a legislative proceeding  
12 pursuant to s. 5, Art. III of the State Constitution, or a  
13 private agreement that provides that the information may be  
14 released to the public; and which is information concerning:

15           a. Trade secrets as defined in s. 688.002, including  
16 information relating

17           ~~(c) Materials that relate to methods of manufacture or~~  
18 ~~production, potential trade secrets, potentially patentable~~  
19 ~~material, actual trade secrets as defined in s. 688.002, or~~  
20 ~~proprietary information received, generated, ascertained, or~~  
21 ~~discovered during the course of research conducted by or~~  
22 ~~through the institute, and reimbursement methodologies or~~  
23 ~~rates. and business transactions resulting from such research;~~

24           ~~b.(d)~~ The identity of a donor or prospective donor to  
25 the ~~Florida Alzheimer's Center and Research~~ institute who  
26 wishes to remain anonymous, and all information identifying  
27 such donor or prospective donor.†

28           ~~c.(e)~~ Any information received by the institute in the  
29 performance of its duties and responsibilities which is  
30 otherwise confidential and exempt by law.† and

31           ~~d.(f)~~ Any information received by the institute from a

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1 person from another state or nation or the Federal Government  
2 which is otherwise confidential or exempt pursuant to that  
3 state's or nation's laws or pursuant to federal law.

4 e. Systems or techniques used by third-party payors or  
5 their agents to access and control health care service  
6 payments.

7 f. Financial incentives or disincentives related to  
8 the use of specific providers, services, or service sites.

9 g. Methods of access to and coordination of services  
10 by a case manager.

11 h. Information relating to private contractual data,  
12 upon a determination by the board of directors that the  
13 disclosure of that information would impair the competitive  
14 interest of the provider of the information. Such  
15 determination by the board must be reflected in the minutes of  
16 the meeting at which the determination was made.

17 i. That portion of the salary or benefits paid to an  
18 employee of the institute who performs scientific research,  
19 which salary or benefits are not paid from public funds.  
20 Personnel records of such employee shall provide notice that  
21 such employee receives a portion of salary or benefits payment  
22 from private sources.

23 j. Minutes of those portions of a meeting of the  
24 governing board of the institute which are closed pursuant to  
25 paragraph (11)(a).

26 (b) Any governmental entity that demonstrates a need  
27 to access such confidential and exempt information in order to  
28 perform its duties and responsibilities shall have access to  
29 such information and shall otherwise keep such information  
30 confidential and exempt.

31 (10) Subsection (9) ~~This section~~ is subject to the

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1 Open Government Sunset Review Act of 1995 in accordance with  
2 s. 119.15 and shall stand repealed on October 2, 2009 ~~2006~~,  
3 unless reviewed and saved from repeal through reenactment by  
4 the Legislature.

5 (11)(a) That portion of a meeting of the governing  
6 board of the Florida Alzheimer's Center and Research Institute  
7 at which information is discussed which is made confidential  
8 and exempt pursuant to subsection (9) is exempt from s.  
9 286.011 and s. 24(b), Art. I of the State Constitution.

10 (b) This subsection is subject to the Open Government  
11 Sunset Review Act of 1995 in accordance with s. 119.15 and  
12 shall stand repealed on October 2, 2009, unless reviewed and  
13 saved from repeal through reenactment by the Legislature.

14 Section 5. The Legislature finds that it is a public  
15 necessity that personal identifying information relating to  
16 clients of programs created or funded through the Florida  
17 Alzheimer's Center and Research Institute, any medical or  
18 health records relating to patients, and proprietary  
19 confidential business information owned or controlled by the  
20 Florida Alzheimer's Center and Research Institute be made  
21 confidential and exempt. If information identifying clients of  
22 programs created or funded through the institute were made  
23 available, the personal privacy of those clients would be  
24 invaded. Those clients could be subjected to public  
25 embarrassment if their participation in these programs were  
26 made known. Without protection for the identity of clients,  
27 the ability of the institute to attract clients and perform  
28 the duties for which it was created would be adversely  
29 affected. Further, the Legislature finds that medical or  
30 health records relating to patients of the institute must be  
31 confidential and exempt. Medical and health records contain

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1 sensitive, highly personal information and, without protection  
2 for such information, patients might refuse the services of  
3 the institute. Further, access to proprietary confidential  
4 business information owned or controlled by the institute  
5 could be used to create an unfair competitive advantage for  
6 persons receiving such information, which would adversely  
7 impact the institute, as well as entities whose proprietary  
8 confidential business information is controlled by the  
9 institute. If trade secrets owned or controlled by the  
10 institute could be inspected and copied, other persons could  
11 take the benefit of the research performed by the institute,  
12 or of its business partners or agents, without compensation or  
13 reimbursement to the institute or its business partners or  
14 agents. Further, if such information were not protected, other  
15 entities would likely decline to enter into partnership or  
16 other business arrangements with the institute knowing that  
17 their proprietary confidential business information could be  
18 publicly available. The Legislature further finds that systems  
19 or techniques used by third-party payors or their agents to  
20 access and control health care service payments must also be  
21 confidential and exempt because these methods or techniques  
22 are developed by these third-party payors and if such  
23 information were made available when in the possession of the  
24 institute, competitors of the third-party payors could obtain  
25 an economic advantage over the third-party payors. If that  
26 were to occur, third-party payors would refuse to contract  
27 with the institute, which would adversely affect the  
28 institute. Further, the Legislature finds that financial  
29 incentives or disincentives related to the use of specific  
30 providers, services, or service sites and methods of access  
31 and coordination of services must also be confidential and

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1 exempt. If this information were obtained by competitors, it  
2 could be used to the disadvantage of entities that contract  
3 with the institute and these entities might refrain from  
4 entering into such contracts on that basis. Further, the  
5 Legislature finds that if the identity of a donor or  
6 prospective donor who wishes to remain anonymous were not  
7 protected, income from donations would be adversely affected,  
8 which would cause a negative impact on the institute. The  
9 Legislature also finds that information received by the  
10 institute from a person in another state or nation or the  
11 Federal Government which is otherwise exempt or confidential  
12 pursuant to the laws of that state or nation or pursuant to  
13 federal law should remain exempt or confidential because the  
14 highly confidential nature of research necessitates that the  
15 institute be authorized to maintain the status of exempt or  
16 confidential information it receives from sponsors of research  
17 and other persons. The Legislature finds that the disclosure  
18 of such information would adversely impact the institute's  
19 ability to fulfill the mission of research for which the  
20 institute was created. It is a public necessity that the  
21 institute have the same confidential protections for  
22 information received in the performance of its duties and  
23 obligations which is confidential and exempt by law in order  
24 to put it on an equal footing with other public research  
25 institutes and to ensure that it has similar opportunities for  
26 success as other private research entities. Further, the  
27 Legislature finds that it is a public necessity that portions  
28 of such meetings of the governing board of the institute at  
29 which personal identifying information of clients, medical or  
30 health records relating to patients, and proprietary  
31 confidential business information that is discussed be made

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1 confidential and exempt. Further, the Legislature finds that  
2 exempting that portion of the salary or benefit of a  
3 scientific researcher that is not paid from public funds is a  
4 public necessity to enable the institute to attract the most  
5 highly competent and qualified researchers as employees, while  
6 still maintaining oversight over the expenditure of public  
7 funds. If those portions of meetings of the governing board of  
8 the institute at which confidential and exempt information is  
9 discussed were not exempt, the exemption for that information  
10 would be defeated. Further, for the same reason, the  
11 Legislature finds that minutes of those portions of meetings  
12 at which information made confidential and exempt by this act  
13 are discussed must also be made confidential and exempt.  
14 Further, the Legislature finds that protecting private  
15 contractual data of entities that are in the possession of the  
16 institute is a public necessity because those entities might  
17 refuse to provide necessary information to the institute if it  
18 were to be available to the public. Thus, for the foregoing  
19 reasons, the Legislature finds that it is a public necessity  
20 that personal identifying information relating to clients of  
21 programs created or funded through the Florida Alzheimer's  
22 Center and Research Institute, any medical or health records  
23 relating to patients, and proprietary confidential business  
24 information owned or controlled by the institute must be made  
25 confidential and exempt from public disclosure.

26       Section 6. If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 invalidity does not affect other provisions or applications of  
29 the act which can be given effect without the invalid  
30 provision or application, and to this end the provisions of  
31 this act are declared severable.

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 1, line 17, after the semicolon,

insert:

amending s. 1004.445, F.S.; creating a public records exemption for proprietary confidential business information owned or controlled by the Florida Alzheimer's Center and Research Institute; specifying types of information that are deemed proprietary confidential business information; creating a public meetings exemption for specified meetings or portions of meetings of the governing board of the Florida Alzheimer's Center and Research Institute; providing for future review and repeal; providing a statement of public necessity; providing severability;