

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 951 (PCB SA 04-12) Public Records and Meetings/Human Machine Cognition
SPONSOR(S): State Administration
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 114

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>3 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
2) <u>Commerce</u>	<u>15 Y, 0 N</u>	<u>Sheheane</u>	<u>Billmeier</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Section 1004.447, F.S., establishes the Florida Institute for Human and Machine Cognition, Inc., as a not-for-profit corporation (corporation) at the University of West Florida. The law authorizes the corporation to create not-for-profit subsidiaries. Records and meetings of the corporation and its subsidiaries are public.

This bill creates a public records exemption for the corporation and its subsidiaries for certain proprietary confidential business information, information received from another state or nation or the Federal Government that is exempt or confidential, information otherwise confidential by law, and information identifying donors or prospective donors who wish to remain anonymous. It creates an exception to the exemption for governmental entities, and requires such entities to maintain the confidential and exempt status of the information received.

This bill creates a public meetings exemption for meetings of the corporation and its subsidiaries at which confidential and exempt information is presented or discussed. It provides for future review and repeal of the exemptions and provides a statement of public necessity.

This bill requires a two-thirds vote of the members present and voting for passage.

This bill appears to have a minimal fiscal impact on state government. See "FISCAL COMMENTS" section.

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

STORAGE NAME: h0951c.com.doc
DATE: March 2, 2004

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

Section 1004.447, F.S., establishes the Florida Institute for Human and Machine Cognition, Inc., as a not-for-profit corporation (corporation) at the University of West Florida.¹ The Institute for the Interdisciplinary Study of Human & Machine Cognition (IHMC) was established in 1990 as an interdisciplinary research unit of the University of West Florida. IHMC has 115 researchers and staff investigating a range of topics related to understanding cognition in both humans and machines with a particular emphasis on building computational tools to leverage and amplify human cognitive and perceptual capacities.²

The law authorizes the corporation to create not-for-profit subsidiaries. Records and meetings of the corporation and its subsidiaries are public.³

Effect of Bill

This bill creates a public records exemption for the corporation and its subsidiaries. It makes confidential and exempt:

- Information relating to methods of manufacture or production, actual or potential trade secrets, patentable material, or proprietary information received, generated, ascertained, or discovered during the course of research, and business transactions resulting from such research.
- Information received from a person from another state or nation or the Federal Government that is exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law.
- Information received that is otherwise confidential and exempt by law.
- Information identifying a donor or prospective donor to the corporation who wishes to remain anonymous.

¹ The corporation investigates a broad range of topics related to understanding cognition in both humans and machines with a particular emphasis on building computational tools to leverage and amplify human cognitive and perceptual capacities. House of Representatives Staff Analysis for HB 491 w/CS, April 25, 2003.

² See <http://www.ihmc.us/about.php>, accessed on February 27, 2004.

³ See Section 1004.447, F.S.

This bill also requires the corporation or its subsidiaries to permit access to such confidential and exempt information to any governmental entity in the performance of its duties and responsibilities. The governmental entity must maintain the confidential and exempt status of the information received.

This bill creates a public meetings exemption for the corporation and its subsidiaries. Those portions of meetings of the corporation or its subsidiaries during which confidential and exempt information is presented or discussed are exempt from the public meetings requirements.

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

C. SECTION DIRECTORY:

Section 1 creates s. 1004.4472, F.S., creating a public records exemption for the Florida Institute for Human and Machine Cognition, Inc., or an authorized subsidiary of the corporation; creates a public meetings exemption for the corporation and its subsidiaries; provides for an exception to the exemption; and provides for future review and repeal.

Section 2 provides a statement of public necessity.

Section 3 provides a July 1, 2004, effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, or eliminate a revenue source.

2. Expenditures:

Unknown and likely minimal. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not affect local governments.

2. Expenditures:

None. This bill does not affect local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. This bill does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

The public records law in general creates a significant, although unquantifiable, increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption, 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:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage.

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., 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 1995⁴ 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.

⁴ Section 119.15, F.S.