

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/SB 1144

SPONSOR: Governmental Oversight and Productivity Committee and Senator Argenziano

SUBJECT: Chapter 119, F.S., Public Records Act

DATE: March 22, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Fav/CS
2.			JU	
3.			RC	
4.				
5.				
6.				

I. Summary:

This committee substitute is the result of Senate Interim Project 2005-138, which is entitled, *Public Records and Meetings: Clarifying and Streamlining Open Government Requirements*, by the Committee on Governmental Oversight and Productivity. The interim project was the second phase of a multi-year review of the Public Records Act. During the 2004 session, the Legislature enacted the first phase of the review, which was the complete reorganization of the substantive provisions of the act. The second phase of the review began the process of focusing on exemptions to public records requirements. The bill makes changes to the Public Records Act recommended in the interim project. Specifically, the bill: (a) reorganizes the public records exemptions in the act according to topic, and creates topical headings; (b) transfers agency-specific exemptions to other substantive provisions of the Florida Statutes; and (c) clarifies the Open Government Sunset Review Act by eliminating duplicative language and provides that consideration be given to whether an exemption under review can be merged to create a uniform exemption, thereby reducing the number of exemptions. The bill also makes numerous cross-reference and conforming changes.

This bill amends the following sections of the Florida Statutes: 27.708, 101.5607, 112.533, 119.011, 119.07, 119.071, 119.0721, 119.15, 286.0113, 287.0943, 320.05, 322.20, 338.223, 401.27, 409.2577, 633.527, 794.024, and 1007.35.

This bill creates the following sections of the Florida Statutes: 119.0711, 119.0712, 119.0713, and 112.31891.

II. Present Situation:

During the 2004 legislative session, the Legislature passed the Committee Substitute for Senate Bill 1678.¹ This bill was based on Interim Project No. 2004-139, the first stage of a multi-year review of public records and meetings issues.² The primary impact of the bill was to reorganize the Public Records Act topically, as it had become unorganized and disjointed during the roughly forty years since it was first adopted. As a result, the act now has an alphabetized definitions section, public policy statements are co-located, access standards are in one section, fee requirements are together, and penalties are in one section.

The Committee Substitute for Senate Bill 1678 did not affect exemptions to open government requirements. The interim report on which the bill was based, however, recommended that a two-pronged review of exemptions be performed after the act was reorganized. First, the report recommended an organizational review of the *ad hoc* statutory placement of exemptions to identify an improved method so that agencies and the public can locate exemptions quickly and easily. Under the State Constitution, the Legislature is the only entity authorized to create such exemptions.³ As the State Constitution only permits the enactment of exemptions that are a public necessity, it is important that information that the Legislature has determined to be private or potentially harmful not be inadvertently released. With improved notice, agencies and members of the public will be better apprised regarding what may or may not be inspected and copied and what portion of meetings can be closed.

In addition to an organizational review, Interim Project Report No. 2204-139 recommended a topical review of exemptions to identify duplicative exemptions for repeal and, if possible, to create general exemptions. A reduction in the number of exemptions would improve awareness of what the Legislature has made exempt. Further, the creation of general exemptions, where appropriate, should provide greater uniformity, and result in more consistency of application.

There are approximately 900 exemptions to public records and meetings requirements.⁴ Exemptions are contained in the Public Records Act, in ch. 289, F.S., and throughout the *Florida Statutes*. The exemptions that are provided in the Public Records Act are located in three sections. Section 119.071, F.S., which is entitled *General exemptions from inspection or copying of public records*, however, contains just one exemption.⁵ Additionally, there is a general exemption for social security numbers that is located in a separate section that would fit in s. 119.071, F.S., the general exemption section.⁶

¹ The bill was approved by the Governor on June 18, 2004; *see*, ch. 2004-335, L.O.F.

² The topical organization of the Public Records Act also was recommended by the Study Committee on Public Records. In 2002, the Legislature created a 22-member committee to address a broad scope of issues regarding court records, official records, privacy, and public access. On February 15, 2003, the study committee submitted recommendations to the Governor, Chief Justice of the Supreme Court, President of the Senate, and Speaker of the House of Representatives. The recommendations included reorganizing the Public Records Act by topic, creating a definition of "redact," and grouping the public records exemptions by either topic or records custodian.

³ Article I, s. 24 (c), State Constitution.

⁴ This estimate may be an undercount in that many statutory sections that are counted as a single exemption often protect multiple types of information.

⁵ The exemption is for security system plans.

⁶ Section 119.0721, F.S.

The bulk of exemptions contained in the Public Records Act are located in s. 119.07(6)(a)-(jj), F.S. In addition to containing exemptions, however, that section also establishes standards for inspecting and copying records, sets permissible fees for copies, and establishes other requirements. Some exemptions in s. 119.07(6)(a)-(jj), F.S., apply generally to all agencies while others apply to only state agencies or local agencies, and others apply more specifically to a particular agency. All of these exemptions are mixed together. Further, for the most part, these exemptions are not organized according to topic. One example of an exemption that is topical is contained in paragraph (i) of subsection (6). This provision exempts information that would identify a variety of agency employees, their spouses and children.⁷ While topical, the exemption is internally inconsistent from one employee group to another, often with no apparent basis for the distinction. This exemption, in and of itself, could be the topic of an entire interim study.

While most agencies surveyed for Interim Project Report No. 2005-138 indicated that they reviewed statutes annually to ensure they were aware of any new applicable exemptions, approximately 70 percent of agencies indicated that it would be helpful if the Legislature were to place general exemptions in one section of statute, instead of the current *ad hoc* manner in which exemptions are placed in the *Florida Statutes*. The current arrangement could be improved by retaining only those exemptions that apply to all agencies or multiple agencies in the Public Records Act, with appropriate subheadings. Further clarity could be provided by transferring and relocating agency specific exemptions to other appropriate sections of law.⁸

Additional exemptions are scattered throughout the *Florida Statutes*. The exemptions that are contained outside the act typically relate to the entity that is covered in the other section of law. A few agencies surveyed for Interim Project Report No. 2005-138 recommended that all exemptions be placed in both the Public Records Act and in the section of the *Florida Statutes* to which they relate. This method would result in duplication of exemptions, as well as the potential for different amendments to those exemptions, which could result in conflicting exemptions, and is, therefore, not recommended.

A general or uniform exemption may be defined as an exemption that applies to all agencies subject to open records or meetings requirements. For example, s. 119.0721, F.S., makes confidential and exempt social security numbers held by any agency. A specific exemption is an exemption that applies to records held by a particular agency.⁹ Over the years, some exemptions that could have been drafted to apply generally were instead drafted to apply to a single agency in one section of law, and recreated to apply to another agency in another section of law, and so forth. For example, in addition to the general exemption for social security numbers, it appears that there are approximately 44 other provisions in the *Florida Statutes* that exempt social security numbers. For the most part, these specific exemptions predate the general exemption.

⁷ This exemption is one of multiple exemptions that protect social security numbers.

⁸ Section 119.07(6)(aa), F.S., provides a specific exemption for personal information in a motor vehicle record that identifies the subject. A "motor vehicle record" is defined to mean any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration or identification card issued by the Department of Highway Safety and Motor Vehicles. Section 119.07(6)(cc), F.S., provides a specific exemption for specific records held by the Department of Health or its service providers.

⁹ It is estimated that there are approximately 45 instances in the *Florida Statutes* that provide exemptions for social security numbers.

Further, some of them contain different standards based on type of employment. Such a distinction may be appropriate in some cases, but may not in others. In most cases, however, redundant exemptions serve little purpose other than to increase the number of exemptions and often result in potential confusion.

Given the high number of exemptions, as well as the variety and complexity of issues affected by them, and the fact that new exemptions are created annually, a complete review of exemptions will take years to complete. Currently, there are three methods by which to review and modify existing exemptions. The first is by a member bill. The second is by assignment of an interim project and a committee bill. The third is by Open Government Sunset Review and committee bill.¹⁰ All three methods are hampered by a constitutional limitation that requires exemption bills to relate to a single subject. The first two methods are not likely to occur periodically or on a scheduled basis. The third method, however, is already periodic and scheduled. Under s. 119.15, F.S., the Open Government Sunset Review Act, all newly-created exemptions are subjected to review five years after enactment. This process currently requires the consideration of certain topics in the review process.¹¹ The act, however, does not require consideration of whether an exemption is redundant of other exemptions or if the exemption could be merged with other exemptions, or if a uniform exemption could be created. Interim Project Report No. 2005-138 noted that amendment of the Open Government Sunset Review Act to require consideration of those issues could result in a periodic, scheduled review of a greater number of exemptions, and possibly reduce the number of exemptions.

III. Effect of Proposed Changes:

The committee substitute makes changes to the Public Records Act recommended in Senate Interim Project 2005-138 by the Committee on Governmental Oversight and Productivity. Specifically, the bill: (a) reorganizes the public records exemptions in the act according to topic, and creates topical headings; (b) transfers agency-specific exemptions to other substantive provisions of the Florida Statutes; and (c) modifies the Open Sunset Review Act so that consideration will be given to reducing the number of exemptions by creating a uniform exemption during the review of an exemption subject to sunset. The organizational structure for exemptions in ch. 119, F.S., under the bill will be as follows:

- General exemptions.
- Executive branch agency exemptions.
- Executive branch agency-specific exemptions.
- Local government agency exemptions.

¹⁰ Section 119.15, F.S.

¹¹ Specifically, the Open Government Sunset Review Act requires consideration of: (1) what specific records or meetings are affected; (2) whom does the exemption uniquely affect, as opposed to the general public; (3) what is the identifiable public purpose or goal of the exemption; and (4) can the information be readily obtained by alternative means. An exemption is to be created or retained under the act only if it: (1) is of a sensitive, personal nature concerning individuals; (2) is necessary for the effective and efficient administration of a governmental program; or (3) affects confidential information concerning an entity.

Under the bill, general exemptions are those exemptions that apply to all “agencies” under the act.¹² Executive branch agency exemptions are exemptions that were drafted to apply only to executive branch agencies. Executive branch agency-specific exemptions are exemptions that apply to an individual agency but where no other chapter of the Florida Statutes is an appropriate place to locate the exemption. Local government agency exemptions are exemptions that were drafted to apply only to local government agencies.

The “general exemptions” is further subdivided according to topic. These subheadings are as follows:

- Agency administration.
- Agency investigations.
- Security.
- Agency personnel information.
- Other personal information.

The bill transfers the exemption for investigatory records of the Chief Inspector General to ch. 112, F.S., which governs such investigations, and transfers the section regulating capital postconviction records to ch. 27, F.S., which governs capital postconviction issues. It removes superfluous language, makes conforming changes, and makes cross-reference changes.

The bill also clarifies the Open Government Sunset Review Act by eliminating duplicative wording in the act. Further it adds to the list of legislative considerations:

- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Finally, the bill removes duplicative language and makes conforming and editorial changes.

Section 1. Amends s. 119.01, F.S., to make a conforming change with Art. I, s. 24 of the State Constitution. Specifically, the bill clarifies that public records are open to inspection “and copying” under the policy of the state. This is not a change to current law.

Section 2. Numerous cross-reference changes are made to conform to organizational changes in the bill.

Section 3. This section creates subsection (1), which is called “Agency Administration,” within s. 119.071, F.S., which is entitled, “General exemptions from inspection or copying of public records.” The section transfers paragraph (a) of subsection (6) of s. 119.07, F.S., which provides an exemption for examination questions and answer sheets of agency examinations, and redesignates it as paragraph (a) of subsection (1) of s. 119.071, F.S.

¹² Section 119.011(2), F.S.

Section 4. This section transfers paragraph (m) of subsection (6) of s. 119.07, F.S., which provides an exemption for sealed bids of proposals received by an agency, and redesignates it as paragraph (b) of subsection (1) of s. 119.071, F.S., Agency Administration.

Section 5. This section transfers paragraph (t) of subsection (6) of s. 119.07, F.S., which provides an exemption for financial statements of prospective bidders for prequalification purposes, and redesignates it as paragraph (c) of subsection (1) of s. 119.071, F.S., Agency Administration.

Section 6. This section transfers paragraph (l) of subsection (6) of s. 119.07, F.S., which provides an exemption for certain records prepared by an agency attorney, and redesignates it as paragraph (d) of subsection (1) of s. 119.071, F.S., Agency Administration.

Section 7. This section transfers paragraph (ii) of subsection (6) of s. 119.07, F.S., which provides an exemption for certain videotape or video signals made under an agreement with an agency, and redesignates it as paragraph (e) of subsection (1) of s. 119.071, F.S., Agency Administration.

Section 8. This section transfers paragraph (o) of subsection (6) of s. 119.07, F.S., which provides an exemption for data processing software obtained by an agency, and redesignates it as paragraph (f) of subsection (1) of s. 119.071, F.S., Agency Administration.

Section 9. This section transfers paragraph (h) of subsection (6) of s. 119.07, F.S., which relates to all criminal intelligence and criminal investigative information, and redesignates it as paragraph (a) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 10. This section transfers s. 119.072, F.S., which permits a Florida criminal justice agency to protect information received from a non-Florida criminal justice agency when required by that non-Florida agency, and redesignates it as paragraph (b) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 11. This section transfers paragraph (b) of subsection (6) of s. 119.07, F.S., which provides an exemption for active criminal intelligence information and active criminal investigative information, and redesignates it as paragraph (c) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 12. This section transfers paragraph (d) of subsection (6) of s. 119.07, F.S., which provides an exemption for information revealing surveillance techniques or procedures or personnel, and redesignates it as paragraph (d) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 13. This section transfers paragraph (k) of subsection (6) of s. 119.07, F.S., which provides an exemption for information revealing the substance of a confession of an arrested person, and redesignates it as paragraph (e) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 14. This section transfers paragraph (c) of subsection (6) of s. 119.07, F.S., which provides an exemption for any information revealing the identity of a confidential informant, and redesignates it as paragraph (f) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 15. This section transfers paragraph (u) of subsection (6) of s. 119.07, F.S., which provides an exemption for records of a complaint when requested by an alleged victim of employment discrimination, and redesignates it as paragraph (g) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 16. This section transfers paragraphs (f) and (g) of subsection (6) of s. 119.07, F.S., which provide exemptions for personal-identifying information of a victim of the crime of sexual battery and for information that reveals the assets of a victim of crime, and redesignates them as paragraphs (h) and (i) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 17. This section transfers paragraph (s) of subsection (6) of s. 119.07, which provides an exemption for personal-identifying information of victims of crime, and redesignates it as paragraph (j) of subsection (2) of s. 119.071, F.S., Agency Investigations.

Section 18. This section redesignates s. 119.071, F.S., which provides an exemption for security system plans, as paragraph (a) of subsection (3) of s. 119.071, F.S., Security.

Section 19. This section transfers paragraphs (ee) and (ff) of subsection (6) of s. 119.07, F.S., which provide exemptions for building plans, blueprints and other schematics of structures owned or operated by an agency, and redesignates them as paragraphs (b) and (c) of subsection (3) of s. 119.071, F.S., Security.

Section 20. This section transfers paragraph (x) of subsection (6) of s. 119.07, F.S., which provides an exemption for agency employee social security numbers, and redesignates it as paragraph (a) of subsection (4) of s. 119.071, F.S., Agency Personnel Information.

Section 21. This section transfers paragraph (v) of subsection (6) of s. 119.07, F.S., which provides an exemption for medical information of agency officers and employees, and redesignates it as paragraph (b) of subsection (4) of s. 119.071, F.S., Agency Personnel Information.

Section 22. This section transfers paragraph (e) of subsection (6) of s. 119.07, F.S., which provides an exemption for undercover personnel of any criminal justice agency, and redesignates it as paragraph (c) of subsection (4) of s. 119.071, F.S., Agency Personnel Information.

Section 23. This section transfers paragraph (i) of subsection (6) of s. 119.07, F.S., which provides an exemption for home addresses, telephone numbers, and other personal-identifying information of a variety of agency personnel, and redesignates it as paragraph (d) of subsection (4) of s. 119.071, F.S., Agency Personnel Information.

Section 24. This section transfers subsections (1) through (11) of s. 119.0721, F.S., and paragraph (gg) of subsection (6), which provide an exemption for social security numbers held by an agency and prescribe procedures for county clerks for redaction of social security numbers,

bank account, debit, charge, and credit card numbers in their possession, and redesignates them as paragraph (a) of subsection (5) of s. 119.071, F.S., Other Personal Information.

Section 25. This section transfers paragraph (dd) of subsection (6) of s. 119.07, F.S., which provides an exemption for bank account numbers and debit, charge, and credit card numbers held by an agency, and redesignates it as paragraph (b) of subsection (5) of s. 119.071, F.S., Other Personal Information.

Section 26. This section transfers paragraph (jj) of subsection (6) of s. 119.07, F.S., which provides an exemption for information that would identify or locate a child who participates in government-sponsored recreation programs, and redesignates it as paragraph (c) of subsection (5) of s. 119.071, F.S., Other Personal Information.

Section 27. This section transfers paragraph (r) of subsection (6) of s. 119.07, F.S., which provides an exemption for records supplied by a telecommunications company containing the names of subscribers, and redesignates it as paragraph (d) of subsection (5) of s. 119.071, F.S., Other Personal Information.

Section 28. This section transfers paragraph (j) of subsection (6) of s. 119.07, F.S., which provides an exemption for personal-identifying information held by an agency for purposes of ridesharing, and redesignates it as paragraph (e) of subsection (5) of s. 119.071, F.S., Other Personal Information.

Section 29. This section transfers paragraph (bb) subsection (6) of s. 119.07, F.S., which provides an exemption for medical history record and information related to health or property insurance provided to a number of departments and local governmental agencies related to local housing assistance programs, and redesignates it as paragraph (f) of subsections (5) of s. 119.071, F.S., Other Personal Information.

Section 30. This section transfers paragraph (q) of subsection (6) of s. 119.07, F.S., which provides an exemption for discrimination complaints, and redesignates it as subsection (1) of s. 119.0711, F.S., Executive branch agency exemptions.

Section 31. This section transfers paragraph (n) of subsection (6) of s. 119.07, F.S., which provides an exemption for valuation reports of real property received by an executive branch, and redesignates it as subsection (2) of s. 119.0711, F.S., Executive branch agency exemptions.

Section 32. This section transfers paragraph (cc) of subsection (6) of s. 119.07, F.S., which provides an exemption for personal identifying information in the Department of Health, and redesignates it as subsection (1) of s. 119.0712, F.S., Executive branch agency-specific exemptions.

Section 33. This section transfers paragraph (aa) of subsection (6) of s. 119.07, F.S., which provides an exemption for personal information contained in a motor vehicle record that identifies the subject of the record, and redesignates it as subsection (2) of s. 119.0712, F.S., Executive branch agency-specific exemptions.

Section 34. This section transfers paragraph (p) of subsection (6) of s. 119.07, F.S., which provides an exemption for employment discrimination complaints held by a local governmental agency, and redesignates it as subsection (1) of s. 119.0713, F.S., Local government agency exemptions.

Section 35. This section transfers paragraph (hh) of subsection (6) of s. 119.07, F.S., which provides an exemption for personal identifying information contained in records relating to a person's health held by a local governmental entity, and redesignates it as subsection (2) of s. 119.0713, F.S., Local government agency exemptions.

Section 36. This section transfers paragraphs (y) and (z) of subsection (6) of s. 119.07, F.S., which provides an exemption for audit reports prepared by a local government internal auditor until the audit becomes final and an exemption for information related to bids relative to the sale, distribution, or use of service, commodity, or tangible personal property to a customer, and redesignates them as subsections (3) and (4) of s. 119.0713, F.S., Local government agency exemptions.

Section 37. This section amends s. 119.15, F.S., the Open Government Sunset Review Act of 1995. Repetitive provisions of the act are removed and other provisions are rearranged for clarity. Additionally, this section is amended to require that, during a review of an exemption that is subject to sunset, two additional factors are considered. Specifically:

- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Section 38. This section of the bill transfers paragraph (w) of subsection (6) of s. 119.07, F.S., which provides an exemption for investigatory records of the Chief Inspector General, and redesignates it as s. 112.31891, F.S., which is part of the same chapter that regulates activities of the inspectors general.

Section 39. This section of the bill transfers s. 119.19, F.S., which provides a processes relating to capital postconviction public records production, and redesignates the section as s. 27.7081, F.S., which is part of the same chapter that regulates capital collateral functions.

Section 40. This section makes cross-reference changes related to the capital collateral regional council in s. 27.708, F.S.

Section 41. This section makes cross-reference changes related to voting systems and the Department of State in s. 101.5607, F.S.

Section 42. This section makes cross-reference changes related to investigations in s. 112.533, F.S.

Section 43. This section makes cross-reference changes in definitions contained in the Public Records Act, s. 119.011, F.S.

Section 44. This section makes cross-reference changes in the Government-In-the-Sunshine Law, s. 286.0113, F.S.

Section 45. This section makes cross-reference changes in the certification of minority business enterprises process contained in s. 287.0943, F.S.

Section 46. This section makes cross-reference changes in s. 320.05, F.S.

Section 47. This section makes cross reference changes in s. 322.20, F.S.

Section 48. This section makes cross-reference changes in s. 338.223, F.S., relating to turnpike projects.

Section 49. This section makes cross-reference changes in s. 401.27, F.S., related to certification examinations and admission notices.

Section 50. This section makes cross-reference changes in s. 409.2577, F.S., relating to the parent locator service.

Section 51. This section makes cross-reference changes in s. 633.527, F.S., relating to examination answer sheets held by the State Fire Marshall.

Section 52. This section makes cross-reference changes to s. 794.024, F.S., which relates to unlawful disclosure of identifying information by certain persons.

Section 53. This section makes cross-reference changes to s. 1007.35, F.S., which relates to the Florida Partnership for Minority and Underrepresented Student Achievement.

Section 54. Provides an effective date of October 1, 2005.

REDESIGNATION CHART FOR EXEMPTIONS	
CURRENT LAW	PCS for SB 1144
119.07(6)(a)	Transferred and redesignated as s. 119.071(1)(a).
119.07(6)(b)	Transferred and redesignated as s. 119.071(2)(c).
119.07(6)(c)	Transferred and redesignated as s. 119.071(2)(f).
119.07(6)(d)	Transferred and redesignated as s. 119.071(2)(d).
119.07(6)(e)	Transferred and redesignated as s. 119.071(4)(c).
119.07(6)(f)	Transferred and redesignated as s. 119.071(2)(h).
119.07(6)(g)	Transferred and redesignated as s. 119.071(2)(i).
119.07(6)(h)	Transferred and redesignated as s. 119.071(2)(a).
119.07(6)(i)	Transferred and redesignated as s. 119.071(4)(d).
119.07(6)(j)	Transferred and redesignated as s. 119.071(5)(e).
119.07(6)(k)	Transferred and redesignated as s. 119.071(2)(e).
119.07(6)(l)	Transferred and redesignated as s.119.071(1)(d).
119.07(6)(m)	Transferred and redesignated as s. 119.071(1)(b).

REDESIGNATION CHART FOR EXEMPTIONS	
CURRENT LAW	PCS for SB 1144
119.07(6)(n)	Transferred and redesignated as s. 119.0711(2).
119.07(6)(o)	Transferred and redesignated as s. 119.071(1)(f).
119.07(6)(p)	Transferred and redesignated as s. 119.0713(1).
119.07(6)(q)	Transferred and redesignated as s. 119.0711(1).
119.07(6)(r)	Transferred and redesignated as s. 119.071(5)(d).
119.07(6)(s)	Transferred and redesignated as s. 119.071(2)(j).
119.07(6)(t)	Transferred and redesignated as s. 119.071(1)(c).
119.07(6)(u)	Transferred and redesignated as s. 119.071(2)(g).
119.07(6)(v)	Transferred and redesignated as s. 119.071(4)(b).
119.07(6)(w)	Transferred and redesignated as s. 112.31891.
119.07(6)(x)	Transferred and redesignated as s. 119.071(4)(a).
119.07(6)(y)	Transferred and redesignated as s. 119.0713(3).
119.07(6)(z)	Transferred and redesignated as s. 119.0713(4).
119.07(6)(aa)	Transferred and redesignated as s. 119.0721(2).
119.07(6)(bb)	Transferred and redesignated as s. 119.071(5)(f).
119.07(6)(cc)	Transferred and redesignated as s. 119.0721(1).
119.07(6)(dd)	Transferred and redesignated as s. 119.071(5)(b).
119.07(6)(ee)	Transferred and redesignated as s. 119.071(3)(b).
119.07(6)(ff)	Transferred and redesignated as s. 119.071(3)(c).
119.07(6)(gg)	Transferred and redesignated as s. 119.071(5)(a).
119.07(6)(hh)	Transferred and redesignated as s. 119.0713(2).
119.07(6)(ii)	Transferred and redesignated as s. 119.071(1)(e).
119.07(6)(jj)	Transferred and redesignated as s. 119.071(5)(c).
119.071	Transferred and redesignated as s. 119.071(3)(a).
119.072	Transferred and redesignated as s. 119.071(2)(b).
119.0721	Transferred and redesignated as s. 119.071(5)(a).
119.19	Transferred and redesignated as s. 27.7081.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24 of the State Constitution provides Floridians with one of the most open governments in the United States. The section states in part:

- (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records

exempted pursuant to this section or specifically made confidential by this Constitution. . . .

- (b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed . . . except with respect to meetings exempted pursuant to this section. . . .

While Art. I, s. 24 of the State Constitution took effect in 1993, Florida already had a long tradition of open government. The Legislature and the courts had developed the right to inspect and copy records and to attend meetings of collegial bodies over the 90 years prior to the adoption of the amendment,¹³ as is evidenced by ch. 119, F.S., the Public Records Act, and by s. 286.011, F.S., the Government-in-the-Sunshine Law (the “Sunshine Law”), and the case law interpreting those provisions. These provisions applied to “agencies.”¹⁴ The amendment raised these statutory rights to a constitutional level and explicitly extended open government principles to the legislative and judicial branches.

The bill does not create or expand any public records or meetings exemptions. Existing exemptions are only transferred and redesignated topically.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There are costs associated with a complete revision to a chapter of the Florida Statutes, including printing costs, though these costs would be nonrecurring.

¹³ The first law providing access to public records was enacted in 1909. *See*, Chapter 5942, L.O.F. (1909).

¹⁴ The Public Records Act applies to an *agency*, which is defined in s. 119.011(2), F.S., to mean . . . *any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including . . . the Commission on Ethics, the Public Service Commission, and the Office of the Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.* Section 286.011, F.S., the Sunshine Law, applies to meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
