

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1307 Public Records Exemption
SPONSOR(S): Tourism Committee
TIED BILLS: HB 1305 **IDEN./SIM. BILLS:** SB 2142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
<u>Orig. Comm.: Tourism Committee</u>	<u>8 Y, 0 N</u>	<u>McDonald</u>	<u>McDonald</u>
<u>1) Transportation & Economic Development Appropriations Committee</u>	<u>16 Y, 0 N</u>	<u>McAuliffe</u>	<u>Gordon</u>
<u>2) State Infrastructure Council</u>	<u>10 Y, 0 N</u>	<u>McDonald</u>	<u>Havlicak</u>
<u>3)</u>	<u></u>	<u></u>	<u></u>
<u>4)</u>	<u></u>	<u></u>	<u></u>
<u>5)</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill creates a public records exemption for the identity of donors to citizen support organizations that are created to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services, and for the cultural and arts programs of the Division of Cultural Affairs of the Department of State.

The bill provides for future review and repeal of the exemption on October 2, 2010, pursuant to the Open Government Sunset Review Act of 1995. It also provides a statement of public necessity and a contingent effective date.

The bill does not have a fiscal impact on state revenues nor on local government revenues or expenditures. According to the Department of State, the impact on state expenditures is insignificant. See "Fiscal Comments."

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates an exemption for donor identity for citizen support organizations in the Department of State. Details are provided below.

B. EFFECT OF PROPOSED CHANGES:

Background

Within the Department of State, only the Division of Historical Resources has the statutory authority to establish citizen support organizations to provide assistance, funding, and promotional support for programs.¹ Currently, the division has three citizen support organizations: Florida Trust for Historic Preservation, Inc., Friends of Historic Properties and Museums, Inc., and Friends of Mission San Luis. Among other statutorily authorized responsibilities, these not for profit corporations raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division. The identities of donors who desire to remain anonymous are confidential and exempt from the provisions of s. 119.07(1), F.S. The anonymity is required to be maintained in the auditor's annual financial audit of the citizen support organizations.

Another bill, HB 1305 , provides the statutory authority to establish citizen support organizations to two additional divisions within the Department of State: Division of Cultural Affairs and Division of Library and Information Services. The language for the additional citizen support organizations is modeled after that of the Division of Historical Resources.

Effect of Proposed Changes

The bill creates a public records exemption for the identity of donors to citizen support organizations created to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services and for the cultural and arts programs of the Division of Cultural Affairs of the Department of State.

The bill provides for future review and repeal of the exemption on October 2, 2010, pursuant to the Open Government Sunset Review Act of 1995. It also provides a statement of public necessity and a contingent effective date.

C. SECTION DIRECTORY:

Section 1 amends s. 257.43(3), F.S., to create a public records exemption for the identity of donors to the citizen support organization created to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services of the Department of State and to provide for future repeal.

Section 2 amends s. 265.703(3), F.S., to create a public record exemption for the identity of donors to the citizen support organization created to provide assistance, funding, and promotional support for the cultural and arts programs of the Division of Cultural Affairs of the Department of State and to provide for future repeal.

Section 3 provides a statement of public necessity.

¹ See s. 267.17, F.S.

Section 4 provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not create, modify, or eliminate a revenue source.

2. Expenditures:

According to the Department of State, this bill is expected to have an insignificant impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not create, modify, or eliminate a revenue source.

2. Expenditures:

This bill will not impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill has a minimal fiscal impact on state expenditures because it requires only the redaction of the identity of donors for citizen support organizations for the Divisions of Cultural Affairs and Library and Information Services within the Department of State. Pursuant to s. 267.17, F.S., the redaction of donor identity is already being performed by staff of the Department of State for three existing citizen support organizations. According to the Department of State, the impact of this bill on state expenditures is insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Article 1, 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, the proposed committee bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records Law

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. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), 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 is also addressed in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act of 1995² 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 & COMBINED BILL CHANGES

² Section 119.15, F.S.