

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: Government Efficiency Appropriations Committee

BILL: SB 792

INTRODUCER: Government Efficiency Appropriations Committee

SUBJECT: Open Government Sunset Review Act

DATE: January 4, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	Favorable
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill saves from repeal an exemption from the Open Government Review Act for all information contained in returns, reports, accounts, or declarations received by the Department of Revenue pursuant to ch. 202, F.S.

This bill substantially amends s. 213.053, F.S.

II. Present Situation:

All information contained in returns, reports, accounts, or declarations received by the Department of Revenue pursuant to ch. 202, F.S., which governs the communications services tax, is confidential, except when used for official purposes, and is exempt from the state's open government requirements. This public records exemption, codified in s. 213.053(1)(b), F.S., is repealed on October 2, 2006, unless the Legislature reenacts the exemption following review under the Open Government Sunset Review Act of 1995.

Florida has a long history of providing public access to the records of governmental and other public entities. The Legislature enacted its first law affording access to public records in 1909. In 1992, Floridians adopted an amendment to the state constitution that raised the statutory right of access to public records to a constitutional level. The Open Government Sunset Review Act of 1995, s. 119.15, F.S., establishes a review and repeal process for public records exemptions. In the fifth year after enactment of a new exemption or the substantial amendment of an existing exemption, the exemption is repealed on October 2, unless the Legislature reenacts the exemption.

The Government Efficiency Appropriations Committee performed an Open Government Sunset Review (Interim Project Report 2006-216) of the exemption found in s. 213.053 (1)(b), F.S., and found the exemption to serve an identifiable public purpose, and to be no broader than necessary to meet that purpose. The exemption provides tax returns and other tax related documents received by the Department of Revenue pursuant to ch. 202, F.S., the same level of confidentiality afforded to other tax returns and tax-related documents. The Department of Revenue reports that confidentiality allows it to administer the state's tax laws by fostering the trust of those persons required to comply with the laws. The efficient collection of tax revenue depends on the voluntary compliance of the taxpayers.

Confidentiality of tax records was affirmed by the Florida Taxpayer's Bill of Rights, a single document passed by the Florida Legislature in 1992 that explains, in simple and non-technical terms, the rights and obligations of both the taxpayer and the department. Section 213.035 (9), F.S., says that taxpayers have the right to have their tax information kept confidential unless otherwise specified by law.

III. Effect of Proposed Changes:

This bill retains the public records exemption in s. 213.053(1)(b), F.S., for all information contained in returns, reports, accounts, or declarations received by the Department of Revenue pursuant to ch. 202, F.S., including investigative reports and information and letters of technical advice.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill is the outcome of an Open Government Sunset Review (Interim Project Report 2006-216) of the exemption found in s. 213.053 (1)(b), F.S., which found the exemption to serve an identifiable public purpose, and to be no broader than necessary to meet that purpose.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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