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 Operations Committee

BILL:	SB 1492
INTRODUCER:	Governmental Operations Committee
SUBJECT:	Open Government Sunset Review; Public Employee Optional Retirement Program Exemption
DATE:	March 15, 2007
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	**Favorable**
2.			GA	
3.			RC	
4.				
5.				
6.				

I. Summary:

Section 121.4501(19), F.S., makes exempt personal identifying information of a participant in the Public Employee Optional Retirement Program. This section was certified by the Division of Statutory Revision as being subject to open government sunset review and the exemption will repeal without legislative action to save it. This bill retains and standardizes the exemption.

This bill amends the following section of the Florida Statutes: 121.4501(19).

II. Present Situation:

Public Records – The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> (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. This section specifically includes the legislative, executive, and judicial branches of government and each

[1] Section 1390, 1391 F.S. (Rev. 1892).
[2] Article I, s. 24 of the State Constitution.

> agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates the State Constitution, specifies conditions under which public access must be provided to records of an agency.[4] Section 119.07(1) (a), F.S., states:

> Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

> . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Only the Legislature is authorized to create exemptions to open government requirements.[8] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

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[3] Chapter 119, F.S.

[4] The word "agency" 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, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to 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 those records exempted by law or the state constitution.

[5] Section 119.011(11), F.S.

[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

[8] Article I, s. 24(c) of the State Constitution.

[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

[11] Article I, s. 24(c) of the State Constitution.

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements an agency is not prohibited from disclosing the record in all circumstances.[13]

The Open Government Sunset Review Act [14] provides for the systematic review, through a 5-year cycle ending October 2nd of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

(1) allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
(2) protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
(3) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[15]

The act also requires consideration of the following:

(1) What specific records or meetings are affected by the exemption?
(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?
(4) Can the information contained in the records or discussed in the meeting by readily obtained by alternative means? If so, how?

[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.
[15] Section 119.15(4)(b), F.S.

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

While the standards in the Open Government Sunset Review Act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.[16] The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(4) (e), F.S., makes explicit that:

> … notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of any exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

Under s. 119.10(1) (a), F.S., any public officer who violates any provision of the Public Records Act is guilty of a noncriminal infraction, punishable by a fine not to exceed $500. Further, under paragraph (b) of that section, a public officer who knowingly violates the provisions of s. 119.07(1), F.S., relating to the right to inspect public records, commits a first degree misdemeanor penalty, and is subject to suspension and removal from office or impeachment. Any person who willfully and knowingly violates any provision of the chapter is guilty of a first degree misdemeanor, punishable by potential imprisonment not exceeding one year and a fine not exceeding $1,000.

Florida Retirement System - The Florida Retirement System (FRS) was created in 1970 as the successor entity to two separate state and local government pension plans. By 1972 it combined the operations of four separately constituted state pension plans.[17] Over the years it has grown to serve more than 910 separate units of government with some 665,000 active, 32,000 in DROP and 252,000 retired members and beneficiaries.[18] More than three-quarters of its employer-members are property tax-based local governments. Constitutional units of local government are compulsory members; statutory units are optional members.

The FRS is a *defined benefit plan* (DB) in which the participant receives an annuitized benefit expressed as a percentage of average final pay. It has six membership classes with annual benefit accrual rates ranging from 1.60 percent to 3.33 percent over twenty-five or thirty-year terms of normal service. The FRS is a non-contributory plan in which public employers make all of the payroll contributions. Enrollment is universal and automatic upon hiring and a vested benefit occurs at six years' service in the DB plan. The Department of Management Services (DMS) administers benefit payments while the State Board of Administration (SBA) is the investment

[16] *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).
[17] The Teachers' Retirement System (TRS); State and County Officers and Employees' Retirement System (SCOERS); the Judicial Retirement System; and the Highway Patrol Pension Fund.
[18] Information provided by the Division of Retirement as of September 18, 2006.

manager. Consensus-based estimates of funding assumptions are provided by an Actuarial Assumption Estimating Conference.[19]

The Public Employee Optional Retirement Program (PEORP) - Since 2001 newly-hired and existing employees have been permitted to choose between the defined benefit plan and a *defined contribution* (DC) alternative, called the "Public Employee Optional Retirement Program" (PEORP).[20] The PEORP is an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program.[21] The defined contribution plan gives members a controllable equity interest in their investments. Unlike the 6-year vesting period in the defined benefit plan, a vested benefit occurs at one year in the defined contribution plan.[22] Benefits are provided through employee-directed investments in accordance with s. 401(a) of the Internal Revenue Code. Further, benefits accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and earnings thereon.

The PEORP offers a diversified mix of low-cost investment products that span the risk-return spectrum and may include a guaranteed account as well as investment products, such as individually allocated guaranteed and variable annuities. Offerings may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other financial instruments.[23]

Under the PEORP, the SBA selects and contracts with approved providers. The SBA has been delegated authority by the Legislature to establish criteria to evaluate and select approved providers and products.[24] The SBA has contracted with CitiStreet to be the third-party administrator of the DC plan.

Exemption Under Review –Under s. 119.15(5), F.S., the Division of Statutory Revision of the Office of Legislative Services must certify each exemption scheduled for repeal by June 1 of the year preceding the repeal date.[25] By letter to the Senate President and Speaker of the House of Representatives dated May 15, 2006, s. 121.4501(19), F.S., was identified by the division director as subject to review prior to the 2007 legislative session. Pursuant to the express terms of the exemption, it will repeal October 2, 2007, unless reviewed and saved from repeal.[26] The exemption was reviewed in *Interim Project Report 2007-210* by the Committee on Governmental Operations and recommended for retention.

[19] Section 216.136(12), F.S.
[20] Sections 121.4501-121.5911, F.S., provide for the Public Employee Optional Retirement Program.
[21] Contributions range from 9% to 20% of salary.
[22] Section 121.4501(6), F.S.
[23] Section 121.4501(9)(b), F.S.
[24] Section 121.4501(9)(b) and (c), F.S.
[25] The Open Government Sunset Review Act provides that when an exemption is enacted it is to be made subject to review and repeal 5 years thereafter.
[26] Chapter 2002-45, L.O.F.; House Bill 935 by Rep. Rubio; Senate Bill 1886 by Senator Sanderson.

Section 121.4501(19), F.S., states:

> All personal identifying information regarding a participant in the Public Employee Optional Retirement Program contained in Florida Retirement System records held by the State Board of Administration or the Department of Management Services, or their agents, employees, or contractors, is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The department may use such exempt information as necessary in any legal or administrative proceeding. . . .[27]

The specific records that are affected by the exemption are Florida Retirement System records held by two agencies, the Department of Management Services and the State Board of Administration. The exemption protects personal-identifying information of PEORP participants.

The statement of public necessity for the exemption establishes more than one goal or public purpose for the exemption. First, it notes that release of personal identifying information would allow investment providers who are not approved PEORP providers to contact program participants in order to offer unapproved investment products. The Legislature found that the offering of unapproved investment products would be very confusing to program participants because there are a number of approved product choices to make already. Further, the Legislature found that permitting transparency regarding the identity of PEORP participants would permit competing approved providers to identify and contact participants for solicitation.

Additionally, the Legislature found that the exemption protects sensitive personal information of PEORP participants. If identifying information could be released, anyone could find out how much money a participant had with an investment provider and in a particular investment product. Investment totals owned by an individual normally would be considered private information and could not be readily obtained by alternative means.

The Legislature also found that release of personal identifying information could prove detrimental to the overall effectiveness and efficiency of the agency's administration of the program. The statement of public necessity also notes that the exemption still permits access to information regarding the providers and products that are being selected by program participants and the amount of money invested in those products, while still protecting the identity of participants.

There is no other exemption that specifically protects the exact same type of information as the exemption under review.[28] As such, merger with another exemption is unnecessary.

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[27] This provision of the statute is unnecessary. First, the information is only exempt, not confidential and exempt. As such, the information may be released under certain circumstances. Further, such information may be obtained in discovery and used in legal proceedings. As such, this provision not only states the obvious but could confuse the standard because a reiteration of this standard is not contained in other exemptions.

[28] Section 121.031(5), F.S., however, protects the names and addresses of retirees, making them confidential and exempt in the aggregate, compiled, or in list form. Exceptions to the exemption are provided for bargaining agents and retiree organizations. The exemption also permits any person to inspect or copy an individual's retirement records one at a time. Further, information may be obtained for a named individual by an individual written request. Additionally, s. 112.215, F.S., authorizes a Government Employees' Deferred Compensation Plan for state and local governmental employees. Under this plan, employees may opt to have specific amounts of their salaries deferred and deposited into investment accounts. The

III. Effect of Proposed Changes:

Section 121.4501(19), F.S., makes exempt personal identifying information of a participant in the Public Employee Optional Retirement Program. This section was certified by the Division of Statutory Revision as being subject to open government sunset review and the exemption will repeal without legislative action to save it. This bill retains the exemption.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This proposed committee bill is the result of an open government sunset review of s. 121.4501(19), F.S. *See*, *Interim Project Report 2007-210* by the Committee on Governmental Operations. In that report, it was recommended that the exemption should be retained.

Section 119.15(6)(b), F.S., provides that

> ". . . an exemption may be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption may be no broader than is necessary to meet the public purpose it serves."

An identifiable public purpose is served if the exemption meets one of three listed purposes *and* if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government *and* it cannot be accomplished without the exemption.[29]

The first authorized purpose listed in subparagraph (6) is if the exemption allows for the effective and efficient administration of a governmental program, the administration of which would be significantly impaired without it. The original statement of public necessity for the exemption named this as the purpose for the exemption, stating:

> ". . . the release of this information would allow investment providers who are not approved Public Employee Optional Retirement Program providers to contact program participants in order to offer unapproved investment products. This would be very

deferral may result in the employee paying fewer taxes for the year income was deferred, as well as provide future income for retirement. Section 112.215(7), F.S., provides that "[a]ll records identifying individual participants in any plan under this section and their personal account activities shall be confidential and are exempt from the provisions of s. 119.07(1)."

[29] While s. 119.15(6)(b), F.S., appears to limit the ability of the Legislature to enact exemptions under the specified circumstances, it must be noted that state statutes do not bind the Legislature. As the Florida Supreme Court has ruled in a series of cases, one legislative body cannot bind a future Legislature to an obligation. *Neu v. Miami Herald Publishing Company*, 462 So.2d 821 (Fla. 1985). The Legislature is, however, bound by the requirements of s. 24, Art. I of the State Constitution.

> confusing to program participants because there are already a number of choices to be made in this area. Also, if identifying information is released then anyone could find out how much money a participant had with an investment provider and in a particular investment product. Release of this information would also allow competing approved providers to contact the participants. *Release of this information to approved or unapproved providers could prove detrimental to the overall effectiveness and efficiency of the agency's administration of the program [emphasis added]*."

Given that the Legislature has created the PEORP so that both providers and products must be approved, it could be argued that solicitations by unapproved providers would have no impact on participants as they would not be authorized to transfer their funds to unapproved providers or products. There could be negative impacts on the effective and efficient administration of the program by the SBA, however, because operations could be interrupted to inform participants that they could not transfer their funds to these unapproved providers or products.[30] As such, it would appear that the exemption meets the requirements of s. 119.15(6)(b)1., F.S., and serves an identifiable public purpose.

On the other hand, the exemption may not provide for the effective and efficient administration by the DMS. Due to the manner in which the exemption has been drafted, recordkeeping for employees who are participants in the optional PEORP plan must be different than recordkeeping for members of the FRS defined benefit plan. The DMS must release personal-identifying information of participants in the DB plan, but it must protect personal-identifying information of participants in the DC plan.[31]

Though the original statement of public necessity does not state it, the exemption appears to meet the requirements of s. 119.15(6)(b)2., F.S., in that the information being protected is of a sensitive personal nature concerning individuals and the release of that information could jeopardize the security of such individuals. While the availability of the amounts held by an individual might not affect the physical security of a PEORP participant, the availability of such information could affect the financial security of such participant by making that participant a target for financial fraud.[32]

While the exemption under review appears to meet the public purpose requirement of subsection (6) of the Open Government Sunset Review Act, consideration must be given to whether the exemption is broader than necessary to meet the public purpose it serves. One way of determining this is whether the information may be readily obtained by alternative means, as provided in s. 119.15(6)(a)4., F.S., and if so, how.

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[30] According to a representative of the SBA, at least one additional FTE would be necessary to perform the task of advising participants regarding solicitations for unapproved products.

[31] An alternative method of protecting information would be to exempt investment choices, account numbers and account amounts of DC participants. This type of exemption would not protect DC participants from solicitation from unapproved providers.

[32] Account amounts of PEORP participants are not held by the SBA typically, though the SBA has the ability to access account numbers and amounts held by approved providers.

It appears that there may be a number of alternative public sources where some information protected by the exemption under review may be obtained. These alternative sources, however, would require review of individual employee records or comparison and manipulation of large amounts of data to obtain the exempt personal-identifying information.

For example, since PEORP participants are public employees, their identities and addresses may be ascertained at their place of employment. Further, some agency personnel files may contain information that would identify an employee as a member of the defined benefit plan or the defined contribution plan. According to the DMS, a public records request of an electronic personnel file in the People First system could identify an employee in the defined contribution plan. Further, such information also could be available in agency hard copies of such files.[33]

Another possible method of determining whether an employee is a member of the defined contribution plan is through agency payroll records. This information may be accessible through records held by the employing agency, or in the case of state agencies, also through the Department of Financial Services. Information may be accessible through knowledge of payroll codes, which are not exempt, or through employer contribution amounts, rates for which are established in statute.[34] As a result, knowledge of the retirement contribution percent paid for an employee can be informative of which plan the employee participates in. As such, the Legislature may wish to consider whether it would be appropriate to close other available public sources of information that would provide information of PEORP participants, such as by protecting payroll codes.

The difficulty with closing other alternative sources of information, however, is that such information may be deduced by a process of elimination. For example, a public records request of all employees of an agency may be compared with a public records request for all employees of that same agency that are in the DB plan. It can be inferred that employees that do not show up on both lists are DC employees.

While information about whether an employee is a participant in PEORP may be available from other agency sources, or through making deductions by comparing various sources, protecting the information in FRS records held by the DMS or the SBA may serve a public purpose in that such information would be much easier to obtain from a single source instead of a patchwork of sources. Having to search multiple sources to obtain information and make calculations based upon payroll information is more time-consuming and, as a result, less cost effective, than getting an inclusive list from either the DMS and the SBA. Thus, while information that would identify an employee as a PEORP participant may be available from other sources, that information is likely to be in a format that would apply to an individual and not to all PEORP participants.

[33] Telephone interview with Marta McPherson, personnel director, and legislative director, Rebecca McCarley, both of DMS, August 28, 2006.

[34] Section 121.71(3), F.S., establishes employer retirement contribution rates effective July 1, 2006, as follows: Regular Class 8.69%; DROP participants 9.0%. Section 121.72(4), F.S., establishes employer retirement contribution rates for defined contribution participants effective July 1, 2002, as follows: Regular Class 9.00%.

While the exemption appears to meet the requirements of the Open Government Sunset Review Act, the exemption could be standardized. As currently drafted, the exemption extends to "employees, agents and contractors" of the DMS and the SBA. It should be noted that employees of the DMS or the SBA, or any other agency for that matter, only have access to exempt information as part of their employment with that agency. As such, it is unnecessary and redundant to reiterate that the information in their hands is protected. Further, agents and contractors of the DMS and the SBA, as well as other agencies, have access to these protected records only because of their agency relationship with these public entities. The definition of agency provided in s. 119.011(2), F.S, includes ". . . any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." As agents of the public agencies, they are subject to the same public records requirements as the public agencies, which includes providing access to public records, as well as protecting information in them that is exempt or confidential.

Additionally, the exemption expressly authorizes the use of the exempt information in any legal or administrative proceeding. This provision is also unnecessary. First, the information is exempt only and not confidential and exempt. As such, the DMS and the SBA are not prohibited from releasing the information in all circumstances. Further, creation of an exemption does not bar use of that protected information in legal or administrative proceedings. As such, this provision of the exemption is also unnecessary and has the potential of confusing the standard in other provisions of law.

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:

The bill strikes language in s. 121.4501(19), F.S., that refers to "agents, employees, or contractors" because this reference is unnecessary. Section 119.011(2), F.S., which defines "agency" for purposes of public records, includes ". . . any other public or private agency, person, partnership, corporation, or business entity *acting on behalf of* a public agency," which includes agents, employees or contractors of the State Board of Administration and the Department of Management Services, both of which meet the definition of "agency" under the public records law. These agents, employees, and contractors *only* have access to this exempt information because of their relationship to these agencies and their duties to perform work for them. Further, these agents, employees, and contractors have the same responsibilities as the agencies to release public records that are in their possession and to redact exempt information prior to release.[35]

Additionally, the bill strikes language which authorizes the State Board of Administration and the Department of Management Services to use exempt information ". . . as necessary in any legal or administrative proceeding." The section only makes personal identifying information exempt, not *confidential* and exempt. As such, s. 121.4501(19), F.S., provides a lower level of protection and the agency is not prohibited from disclosing the documents in all circumstances.[36] If the information were confidential and exempt, it could only be released to those persons and entities designated in the statute.[37]

The fact that a document is exempt or confidential does not prohibit use of that document in a judicial or administrative proceeding. Such information *may* require an in camera inspection by the court to determine whether the information is protected and what steps are necessary, if any, to protect the information. Further, an exemption from disclosure does not render a document automatically privileged for purposes of discovery under the Florida Rules of Civil Procedure.[38] There are some cases where legislative confidentiality requirements provide an express privilege from discovery,[39] but that is not the case here as the provision is only exempt and no limit on discovery of the information is provided.

[35] *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group, Inc.*, 596 So.2d 1029 (Fla. 1992); *Booksmart Enterprises, Inc. v. Barnes & Noble College Bookstores, Inc.* 718 So.2d 227, 229 (Fla. 3d DCA 1998); *News-Journal Corporation v. Memorial Hospital-West Volusia, Inc.*, 695 So.2d 418 (Fla. 5th DCA 1997), *approved*, 729 So.2d 373 (Fla. 1999).
[36] See, *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[37] *WFTV, Inc. v. School Board of Seminole County*, 874 So.2d 48 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004).
[38] *Department of Professional Regulation v. Spiva*, 478 So.2d 382 (Fla 1st DCA 1985*); Department of Highway Safety and Motor Vehicles v. Kropff*, 445 So.2d 1068 (Fla. 3d DCA 1984).
[39] See, e.g., Cruger v. Love, 599 So.2d 111 (Fla. 1992), noting that records of medical review committees are statutorily privileged from discovery.

VIII. Summary of Amendments:

None.