

**The Florida Senate**  
**PROFESSIONAL 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: Communications and Public Utilities Committee

BILL: CS/SB 2024

INTRODUCER: Communications and Public Utilities & Senator Bennett

SUBJECT: Public Records/Alternative Energy Technology

DATE: April 18, 2007                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Fav/CS</b>
2.			EP	
3.			GO	
4.			RC	
5.				
6.				

**I. Summary:**

The bill creates public records and public meetings exemptions for specified records and portions of meetings of the Florida Alternative Energy Center. It provides findings of public necessity.

The bill creates and unnumbered section of the Florida Statutes.

**II. Present Situation:**

Section 24 of Article I of the state constitution requires that all public records be open for inspection, except those records exempted pursuant to that section. The section further provides that a public records exemption may be created by the Legislature by general law passed by a two-thirds vote of each house, provided that the law states with specificity the public necessity justifying the exemption and is no broader than necessary to accomplish the stated purpose. Section 119.15 (6)(b), F.S., goes on to provide that an identifiable public purpose for a public records exemption is served if the exemption meets one of the following purposes and 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:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or

- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Section 24 of Article I of the state constitution also requires that all meetings of any collegial public body of the executive branch of state government at which official acts are to be taken or at which public business of such body is to be transacted or discussed must be open and noticed to the public, except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution. The section also provides that the Legislature may provide by general law passed by a two-thirds vote of each house for the exemption of meetings from these requirements, provided that the law states with specificity the public necessity justifying the exemption and is no broader than necessary to accomplish the stated purpose.

### **III. Effect of Proposed Changes:**

The bill exempts from public records laws the following information held by the Florida Alternative Energy Center:

- The identity of a business that may be recruited and all negotiations to recruit a business to locate in Florida. This information becomes a public record at the conclusion or termination of the recruitment process and shall be made available for inspection and copying at that time.
- Proprietary business information obtained from a business entity, the disclosure of which would injure the business in the marketplace, and material relating to methods of manufacture or production, potential trade secrets, patentable material, actual trade secrets as defined in s. 668.002, F.S., or proprietary information received, generated, ascertained, or discovered during the course of research conducted by or through the corporation.
- The identity of a donor or potential donor who requests to be anonymous.
- Information received from another person in this state which would be confidential or exempt from disclosure while in that person's possession or information received from a person from another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law.

The bill also exempts from public meetings law and closes to the public that portion of a meeting of the board of directors of the Florida Alternative Energy Center during which information is presented or discussed which is confidential and exempt from disclosure under the provisions discussed above.

The bill further exempts from public records laws any records generated during that portion of any board meeting which is closed to the public, including minutes, tape recordings, videotapes, transcriptions, or notes.

The bill provides that a public employee may inspect and copy the records or information made confidential by the bill exclusively in the performance of public duties. A public employee who receives this exempt and confidential information must maintain the confidentiality of the

information. Any public employee receiving confidential information who knowingly and willfully violates these provisions commits a misdemeanor of the first degree.

The statute created by the bill is made subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and stands repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also makes legislative findings, including a finding of public necessity for the exemptions. The Legislature finds that it is in the public interest to promote, in this state, research on and the use of renewable energy resources, energy conservation, distributed generation, advanced transmission methods, and pollution control. Both Florida and the United States in general are overly dependent upon foreign oil. Renewable electric resources and energy conservation have the potential to decrease this dependency, minimize the volatility of fuel costs, and improve environmental conditions. Distributed generation and enhancements to the transmission of electricity have the potential to make the supply of electricity more secure and decrease the likelihood and severity of blackouts. Research conducted in this state on these subjects can make Florida a leader in new and innovative technologies and encourage investment and economic development within the state.

The Legislature finds that in order to achieve these benefits, it is a public necessity that certain records held by the Florida Alternative Energy Center be made confidential and exempt from public disclosure. If information relating to recruiting, proprietary business information, and research information is not made confidential, businesses participating in these activities will be put at a competitive disadvantage. As a result, these businesses will not be willing to participate in the recruitment and location process or to share information on research needs, ongoing research, or research results. The state will lose the benefits of the economic development of businesses relocating to Florida, of having advanced research into alternative energy conducted in Florida, and of being positioned to make maximum use of new developments in alternative energy. The state university research system will also lose the benefits of a coordinated alternative energy research program involving private companies. Finally, because some donors wish to remain anonymous and will not make donations if their identity is not protected, donor-identity information must be made confidential.

The bill takes effect on the same date that Senate Bill 996 or similar legislation takes effect, if such legislation is enacted in the same legislative session, or an extension thereof, and becomes law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

The bill creates public records and public meetings exemptions, and contains no provisions not related to that purpose. It makes the necessary finding of public necessity. It will have to be passed by a two-thirds vote of each chamber.

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:**

This bill is linked to CS/CS/SB 996.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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