

1 A bill to be entitled

2 An act relating to a public records and public meetings  
3 exemption; amending s. 395.3035, Florida Statutes;  
4 providing an exemption from public records requirements  
5 for the name of a candidate or nominee for the position of  
6 chief executive officer or designated corporate officer of  
7 a public hospital in the possession of a search committee  
8 appointed by the hospital governing board for the purpose  
9 of selecting such candidates or nominees and any records  
10 or information in the possession of the search committee  
11 that would reveal the identity of a candidate or nominee;  
12 providing for limited duration of the exemption; providing  
13 an exemption from public meetings requirements for a  
14 meeting or portion of a meeting of a search committee  
15 appointed by the governing board of a public hospital for  
16 the purpose of selecting candidates or nominees for the  
17 position of chief executive officer or designated  
18 corporate officer of the hospital at which information  
19 made confidential and exempt under the act is presented or  
20 discussed; providing an exemption from public records  
21 requirements for any records generated during those  
22 meetings or portions of meetings which are closed to the  
23 public under the act; providing for limited duration of  
24 the exemption; providing for review and repeal; providing  
25 a statement of public necessity; providing an effective  
26 date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

29  
30 Section 1. Paragraph (e) is added to subsection (2) of  
31 section 395.3035, Florida Statutes, subsection (5) is renumbered  
32 as subsection (6) and amended, subsections (6) through (9) are  
33 renumbered as subsections (7) through (10), respectively, and a  
34 new subsection (5) is added to that section, to read:

35 395.3035 Confidentiality of hospital records and  
36 meetings.--

37 (2) The following records and information of any hospital  
38 that is subject to chapter 119 and s. 24(a), Art. I of the State  
39 Constitution are confidential and exempt from the provisions of  
40 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

41 (e) The name of a candidate or nominee for the position of  
42 chief executive officer or designated corporate officer of a  
43 public hospital in the possession of a search committee  
44 appointed by the governing board of a public hospital for the  
45 purpose of selecting such candidates or nominees and any records  
46 or information in the possession of the search committee that  
47 would reveal the identity of such candidate or nominee are  
48 confidential and exempt from the provisions of s. 119.071(1) and  
49 s. 24(a), Art. I of the State Constitution until the list of  
50 candidates or nominees is transmitted to the hospital governing  
51 board. This paragraph is subject to the Open Government Sunset  
52 Review Act in accordance with s. 119.15 and shall stand repealed  
53 on October 2, 2012, unless reviewed and saved from repeal  
54 through reenactment by the Legislature.

55 (5) Any meeting or portion of a meeting of a search  
56 committee appointed by the governing board of a public hospital

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57 for the purpose of selecting candidates or nominees for the  
58 position of chief executive officer or designated corporate  
59 officer of the hospital at which information is presented or  
60 discussed which is confidential and exempt under paragraph  
61 (2) (e) is closed to the public and exempt from s. 286.011 and s.  
62 24(b), Art. I of the State Constitution. This subsection is  
63 subject to the Open Government Sunset Review Act in accordance  
64 with s. 119.15 and shall stand repealed on October 2, 2012,  
65 unless reviewed and saved from repeal through reenactment by the  
66 Legislature.

67 (6) ~~(5)~~ Any public records, such as tape recordings,  
68 minutes, and notes, generated at any governing board meeting, ~~or~~  
69 portion of a governing board meeting, search committee meeting  
70 pursuant to subsection (5), or portion of a search committee  
71 meeting which is closed to the public pursuant to this section  
72 are confidential and exempt from the provisions of s. 119.07(1)  
73 and s. 24(a), Art. I of the State Constitution. All ~~such~~ records  
74 of a governing board meeting shall be retained and shall cease  
75 to be exempt at the same time as the transcript of the meeting  
76 becomes available to the public. All records of a search  
77 committee meeting shall be retained and shall be exempt until  
78 the search committee's list of candidates or nominees is  
79 transmitted to the governing board. This subsection is subject  
80 to the Open Government Sunset Review Act in accordance with s.  
81 119.15 and shall stand repealed on October 2, 2012, unless  
82 reviewed and saved from repeal through reenactment by the  
83 Legislature.

84           Section 2. The Legislature finds that it is a public  
85 necessity that the name of a candidate or nominee for the  
86 position of chief executive officer or designated corporate  
87 officer of a public hospital in the possession of a search  
88 committee appointed by the governing board of a public hospital  
89 for the purpose of selecting such candidates or nominees and any  
90 records or information in the possession of the search committee  
91 that would reveal the identity of a candidate or nominee be made  
92 confidential and exempt from public records requirements until  
93 the list of candidates or nominees is transmitted to the  
94 hospital governing board. Public hospitals are placed at a  
95 competitive disadvantage with private hospitals, both within the  
96 state and nationally, with respect to the selection and hiring  
97 of potential chief executive officers or designated corporate  
98 officers because public records laws require that the identities  
99 of candidates or nominees for such positions be made public.  
100 Because of the state's open records laws, many qualified  
101 applicants are sometimes hesitant to apply for these positions  
102 out of concern that their current employment may be adversely  
103 affected or even jeopardized if it is made known that they are  
104 seeking or being considered for employment elsewhere.  
105 Consequently, the Legislature further finds that it is a public  
106 necessity that a meeting or portion of a meeting of a search  
107 committee appointed by the board of trustees of a public  
108 hospital for the purpose of selecting such candidates or  
109 nominees at which information is presented or discussed which is  
110 confidential and exempt from public records requirements be made  
111 confidential and exempt from public meetings requirements. The

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112 Legislature further finds that it is a public necessity that any  
113 records generated at those meetings or portions of meetings  
114 which are closed to the public, such as tape recordings,  
115 minutes, or notes, be made confidential and exempt from public  
116 records requirements until the list of candidates or nominees is  
117 transmitted to the hospital governing board. Failure to extend  
118 the public records exemption to the records generated at a  
119 search committee meeting would render meaningless the exemption  
120 from public meetings requirements for a public hospital search  
121 committee.

122 Section 3. This act shall take effect October 1, 2007.