

By Senator Posey

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1 A bill to be entitled

2 An act relating to public records; repealing ss.
3 119.0711(1) and 119.0713, F.S., relating to complaints and
4 records in the custody of an agency and to complaints and
5 records in the custody of any unit of local government,
6 respectively, concerning discrimination complaints
7 relating to race, color, religion, sex, national origin,
8 age, handicap, or marital status; amending s. 119.071,
9 F.S.; expanding the public-records exemption for
10 discrimination complaints to apply to any agency governed
11 by ch. 119, F.S.; providing that records of discrimination
12 complaints held by an agency are exempt from public
13 disclosure until a probable cause finding is made, the
14 investigation becomes inactive, or the complaint is made
15 part of the official record of a proceeding or court
16 hearing; providing exceptions; providing that if the
17 alleged victim chooses not to file a complaint and
18 requests that records of the complaint remain
19 confidential, all records relating to an allegation of
20 employment discrimination are confidential; amending s.
21 338.223, F.S.; conforming a cross-reference; providing for
22 future legislative review and repeal of the exemption
23 under the Open Government Sunset Review Act; providing a
24 statement of public necessity; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Subsection (1) of section 119.0711, Florida
30 Statutes, and subsection (1) of section 119.0713, Florida
31 Statutes, are repealed.

32 Section 2. Paragraph (k) is added to subsection (2) of
33 section 119.071, Florida Statutes, to read:

34 119.071 General exemptions from inspection or copying of
35 public records.--

36 (2) AGENCY INVESTIGATIONS.--

37 (k)1. All complaints and other records in the custody of an
38 agency which relate to a complaint of discrimination relating to
39 race, color, religion, sex, national origin, age, handicap, or
40 marital status, in connection with hiring practices, position
41 classifications, salary, benefits, discipline, discharge,
42 employee performance, evaluation, or other related activities or
43 in the sale or rental of housing, the provision of brokerage
44 services, or the financing of housing are exempt from s.
45 119.07(1) and s. 24(a), Art. I of the State Constitution until a
46 finding is made relating to probable cause, the investigation of
47 the complaint becomes inactive, or the complaint or other record
48 is made part of the official record of any hearing or court
49 proceeding.

50 2. This paragraph does not affect any function or activity
51 of the Florida Commission on Human Relations.

52 3. A state or federal agency that is authorized to have
53 access to such discrimination complaints or records by any
54 provision of law shall be granted such access in furtherance of
55 the agency's statutory duties.

56 4. If the alleged victim chooses not to file a complaint
57 and requests that records of the complaint remain confidential,

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58 all records relating to an allegation of employment
59 discrimination are confidential and exempt from s. 119.07(1) and
60 s. 24(a), Art. I of the State Constitution.

61 5. This subsection does not modify or repeal any special or
62 local act.

63 Section 3. Paragraph (b) of subsection (2) of section
64 338.223, Florida Statutes, is amended to read:

65 338.223 Proposed turnpike projects.--

66 (2)

67 (b) In accordance with the legislative intent expressed in
68 s. 337.273, and after the requirements of paragraph (1)(c) have
69 been met, the department may acquire lands and property before
70 making a final determination of the economic feasibility of a
71 project. The requirements of paragraph (1)(c) do not apply to
72 hardship and protective purchases of advance right-of-way by the
73 department. The cost of advance acquisition of right-of-way may
74 be paid from bonds issued under s. 337.276 or from turnpike
75 revenues. For purposes of this paragraph, the term "hardship
76 purchase" means purchase from a property owner of a residential
77 dwelling of not more than four units who is at a disadvantage due
78 to health impairment, job loss, or significant loss of rental
79 income. For purposes of this paragraph, the term "protective
80 purchase" means that a purchase to limit development, building,
81 or other intensification of land uses within the area right-of-
82 way is needed for transportation facilities. The department shall
83 give written notice to the Department of Environmental Protection
84 30 days before final agency acceptance as set forth in s.
85 119.0711 ~~s. 119.0711(2)~~, which notice shall allow the Department
86 of Environmental Protection to comment. Hardship and protective

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87 purchases of right-of-way shall not influence the environmental
88 feasibility of a project, including the decision relative to the
89 need to construct the project or the selection of a specific
90 location. Costs to acquire and dispose of property acquired as
91 hardship and protective purchases are considered costs of doing
92 business for the department and are not to be considered in the
93 determination of environmental feasibility for the project.

94 Section 4. Paragraph (k) of subsection (2) of s. 119.071,
95 Florida Statutes, is subject to the Open Government Sunset Review
96 Act in accordance with s. 119.15, Florida Statutes, and shall
97 stand repealed on October 2, 2013, unless reviewed and saved from
98 repeal through reenactment by the Legislature.

99 Section 5. The Legislature finds that it is a public
100 necessity that complaints and other records held by an agency
101 which relate to complaints of discrimination be exempt from s.
102 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State
103 Constitution until a finding is made relating to probable cause,
104 the investigation of the complaint becomes inactive, or the
105 complaint or other record is made part of the official record of
106 any hearing or court proceeding. Otherwise, using the public-
107 records law, an employee under investigation could request, and
108 the agency would have no alternative but to produce, sensitive
109 investigatory documents. The protection and confidentiality of
110 witness' identities is very important in discrimination and
111 harassment investigations.

112 Section 6. This act shall take effect July 1, 2008.