

By the Committee on Judiciary; and Senator Posey

590-05805-08

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1 A bill to be entitled

2 An act relating to public records; renumbering and
3 amending s. 119.0711(1), F.S.; transferring provisions
4 that provide a public-records exemption for complaints and
5 other records in the custody of any agency in the
6 executive branch of state government which relate to a
7 complaint of discrimination; expanding the exemption to
8 provide for applicability to any agency rather than any
9 agency in the executive branch of state government;
10 amending s. 119.071, F.S.; reorganizing provisions;
11 providing for review and repeal of the exemption;
12 providing a statement of public necessity; amending s.
13 338.223, F.S.; conforming a cross-reference; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (1) of section 119.0711, Florida
19 Statutes, is transferred and redesignated as a new paragraph (g)
20 of subsection (2) of section 119.071, Florida Statutes, and
21 amended, and present paragraph (g) of subsection (2) of that
22 section is amended, to read:

23 119.071 General exemptions from inspection or copying of
24 public records.--

25 (2) AGENCY INVESTIGATIONS.--

26 (g)1.a.(1) All complaints and other records in the custody
27 of any agency ~~in the executive branch of state government~~ which
28 relate to a complaint of discrimination relating to race, color,
29 religion, sex, national origin, age, handicap, or marital status

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30 in connection with hiring practices, position classifications,
31 salary, benefits, discipline, discharge, employee performance,
32 evaluation, or other related activities are exempt from s.
33 119.07(1) and s. 24(a), Art. I of the State Constitution until a
34 finding is made relating to probable cause, the investigation of
35 the complaint becomes inactive, or the complaint or other record
36 is made part of the official record of any hearing or court
37 proceeding.

38 b. This provision shall not affect any function or activity
39 of the Florida Commission on Human Relations.

40 c. Any state or federal agency that is authorized to have
41 access to such complaints or records by any provision of law
42 shall be granted such access in the furtherance of such agency's
43 statutory duties.

44 2.(g) When the alleged victim chooses not to file a
45 complaint and requests that records of the complaint remain
46 confidential, all records relating to an allegation of employment
47 discrimination are confidential and exempt from s. 119.07(1) and
48 s. 24(a), Art. I of the State Constitution.

49 3. This paragraph is subject to the Open Government Sunset
50 Review Act in accordance with s. 119.15 and shall stand repealed
51 on October 2, 2013, unless reviewed and saved from repeal through
52 reenactment by the Legislature.

53 Section 2. The Legislature finds that it is a public
54 necessity that all complaints and other records in the custody of
55 any agency which relate to a complaint of discrimination relating
56 to race, color, religion, sex, national origin, age, handicap, or
57 marital status in connection with hiring practices, position
58 classifications, salary, benefits, discipline, discharge,

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59 employee performance, evaluation, or other related activities be
60 made exempt from public-record requirements until a finding is
61 made relating to probable cause, the investigation of the
62 complaint becomes inactive, or the complaint or other record is
63 made part of the official record of any hearing or court
64 proceeding. This exemption is necessary because the release of
65 such information could potentially be defamatory to an individual
66 under investigation or cause unwarranted damage to the good name
67 or reputation of such individual. In addition, the Legislature
68 finds that it is a public necessity that such information be made
69 temporarily exempt from public-record requirements so that the
70 investigation is not otherwise significantly impaired. The
71 exemption creates a secure environment in which an agency may
72 conduct its investigation.

73 Section 3. Paragraph (b) of subsection (2) of section
74 338.223, Florida Statutes, is amended to read:

75 338.223 Proposed turnpike projects.--

76 (2)

77 (b) In accordance with the legislative intent expressed in
78 s. 337.273, and after the requirements of paragraph (1)(c) have
79 been met, the department may acquire lands and property before
80 making a final determination of the economic feasibility of a
81 project. The requirements of paragraph (1)(c) do not apply to
82 hardship and protective purchases of advance right-of-way by the
83 department. The cost of advance acquisition of right-of-way may
84 be paid from bonds issued under s. 337.276 or from turnpike
85 revenues. For purposes of this paragraph, the term "hardship
86 purchase" means purchase from a property owner of a residential
87 dwelling of not more than four units who is at a disadvantage due

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88 | to health impairment, job loss, or significant loss of rental
89 | income. For purposes of this paragraph, the term "protective
90 | purchase" means that a purchase to limit development, building,
91 | or other intensification of land uses within the area right-of-
92 | way is needed for transportation facilities. The department shall
93 | give written notice to the Department of Environmental Protection
94 | 30 days before final agency acceptance as set forth in s.
95 | 119.0711~~(2)~~, which notice shall allow the Department of
96 | Environmental Protection to comment. Hardship and protective
97 | purchases of right-of-way shall not influence the environmental
98 | feasibility of a project, including the decision relative to the
99 | need to construct the project or the selection of a specific
100 | location. Costs to acquire and dispose of property acquired as
101 | hardship and protective purchases are considered costs of doing
102 | business for the department and are not to be considered in the
103 | determination of environmental feasibility for the project.

104 | Section 4. This act shall take effect upon becoming a law.