

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 2824

INTRODUCER: Senator Posey

SUBJECT: Public Records/Exemption/Florida Advanced Combustion Center, Inc.

DATE: April 7, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	<b>Pre-meeting</b>
2.			CM	
3.			GO	
4.			RC	
5.				
6.				

**I. Summary:**

The bill creates a public records exemption for specified records of the Florida Advanced Combustion Energy Center, Inc. It provides findings of public necessity.

This bill amends s. 377.707, F.S., which has not yet been created.

**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 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 the Constitution. The section also provides that the Legislature may provide by a 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:

**Section 1.** This bill amends s. 377.707, F.S.<sup>1</sup>, which would exempt from public records laws certain information held by the Florida Advanced Combustion Center, Inc. The Florida Advanced Combustion Center, Inc., does not currently exist, but would be created by SB 2826.<sup>2</sup> The materials that would be exempt include: methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to receive funding that are received, generated, ascertained, or discovered by the Florida Advanced Combustion Center, Inc., including its affiliates or subsidiaries and partnership participants, such as private enterprises, educational institutions, and other organizations.

This exemption is repealed on October 2, 2013, unless reviewed and saved from repeal through reenactment by the Legislature pursuant to the Open Government Sunset Review Act.

**Section 2.** This section provides a legislative finding that it is a public necessity that materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to receive funding that are received, generated, ascertained, or discovered by the Florida Advanced Combustion Center, Inc., be held confidential and exempt from public records requirements. Technology commercialization and manufacturing programs must utilize materials related to those that are specified to be exempt in order for the exemption to be effective. If competitors were privy to such information, they could take advantage of that information to the financial detriment of the corporation submitting the information or proposal, which would chill participation in programs of the Florida Advanced Combustion Energy Center, Inc., and impede the effectiveness of the corporation.

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<sup>1</sup> s. 377.707, F.S., has not yet been created. The bill amends a section that will be created by an unspecified House Bill.

<sup>2</sup> SB 2826 is linked to this bill; however, SB 2826 creates the Florida Clean Energy Center, Inc., and this bill exempts public records for the Florida Advanced Combustion Center, Inc.

**Section 3.** This bill would take effect on the same date that SB 2426 or similar legislation takes effect, if such legislation is adopted in the same legislative session of 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. Fiscal Impact Statement:**

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 SB 2826; however that bill creates the Florida Clean Energy Center, Inc., not the Florida Advanced Combustion Energy Center, Inc.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

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