

ENROLLED  
 HB 7033

2008 Legislature

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           which provide a public records exemption for complaints  
 5           and 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.

15  
 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,

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29 religion, sex, national origin, age, handicap, or marital status  
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  
39 activity 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  
47 employment discrimination are confidential and exempt from s.  
48 119.07(1) and 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  
52 through 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  
55 of any agency which relate to a complaint of discrimination  
56 relating to race, color, religion, sex, national origin, age,

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

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

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