

By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending ss. 257.35 and 257.38,
4 F.S.; revising a public-records exemption that is
5 provided for nonpublic manuscripts and other archival
6 material held by the Florida State Archives within the
7 Department of State or held by a local government
8 archive; providing a definition; clarifying provisions
9 governing the continued confidentiality of certain
10 records that are transferred to the custody of the
11 division, placed in the keeping of the division, or
12 donated to an official archive of a municipality or
13 county; saving the exemption from repeal under the
14 Open Government Sunset Review Act; deleting provisions
15 that provide for repeal of the exemption; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 257.35, Florida Statutes, is amended to
21 read:

22 257.35 Florida State Archives.—

23 (1) There is created within the Division of Library and
24 Information Services of the Department of State the Florida
25 State Archives for the preservation of those public records, as
26 defined in s. 119.011, manuscripts, and other archival material
27 that have been determined by the division to have sufficient
28 historical or other value to warrant their continued
29 preservation and have been accepted by the division for deposit

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30 in its custody. It is the duty and responsibility of the
31 division to:

32 (a) Organize and administer the Florida State Archives.

33 (b) Preserve and administer such records as shall be
34 transferred to its custody; accept, arrange, and preserve them,
35 according to approved archival practices; and permit them, at
36 reasonable times and under the supervision of the division, to
37 be inspected and copied. ~~All public records transferred to the
38 custody of the division shall be subject to the provisions of s.
39 119.07(1), except that any public record or other record
40 provided by law to be confidential or prohibited from inspection
41 by the public shall be made accessible only after a period of 50
42 years from the date of the creation of the record. Any nonpublic
43 manuscript or other archival material which is placed in the
44 keeping of the division under special terms and conditions,
45 shall be made accessible only in accordance with such law terms
46 and conditions and shall be exempt from the provisions of s.
47 119.07(1) to the extent necessary to meet the terms and
48 conditions for a nonpublic manuscript or other archival
49 material.~~

50 (c) Assist the records and information management program
51 in the determination of retention values for records.

52 (d) Cooperate with and assist insofar as practicable state
53 institutions, departments, agencies, counties, municipalities,
54 and individuals engaged in activities in the field of state
55 archives, manuscripts, and history and accept from any person
56 any paper, book, record, or similar material which in the
57 judgment of the division warrants preservation in the state
58 archives.

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59 (e) Provide a public research room where, under rules
60 established by the division, the materials in the state archives
61 may be studied.

62 (f) Conduct, promote, and encourage research in Florida
63 history, government, and culture and maintain a program of
64 information, assistance, coordination, and guidance for public
65 officials, educational institutions, libraries, the scholarly
66 community, and the general public engaged in such research.

67 (g) Cooperate with and, insofar as practicable, assist
68 agencies, libraries, institutions, and individuals in projects
69 designed to preserve original source materials relating to
70 Florida history, government, and culture and prepare and publish
71 handbooks, guides, indexes, and other literature directed toward
72 encouraging the preservation and use of the state's documentary
73 resources.

74 (h) Encourage and initiate efforts to preserve, collect,
75 process, transcribe, index, and research the oral history of
76 Florida government.

77 (i) Assist and cooperate with the records and information
78 management program in the training and information program
79 described in s. 257.36(1)(g).

80 (2) Any agency is authorized and empowered to turn over to
81 the division any record no longer in current official use. The
82 division, in its discretion, is authorized to accept such record
83 and, having done so, shall provide for its administration and
84 preservation as herein provided and, upon acceptance, shall be
85 considered the legal custodian of such record. The division is
86 empowered to direct and effect the transfer to the archives of
87 any records that are determined by the division to have such

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88 historical or other value to warrant their continued
89 preservation or protection, unless the head of the agency which
90 has custody of the records certifies in writing to the division
91 that the records shall be retained in the agency's custody for
92 use in the conduct of the regular current business of the
93 agency.

94 (3) Title to any record transferred to the Florida State
95 Archives, as authorized in this chapter, shall be vested in the
96 division.

97 (4) The division shall make certified copies under seal of
98 any record transferred to it upon the application of any person,
99 and said certificates shall have the same force and effect as if
100 made by the agency from which the record was received. The
101 division may charge a fee for this service based upon the cost
102 of service.

103 (5) The division may establish and maintain a schedule of
104 fees for services which shall include, but not be limited to,
105 restoration of archival materials, storage of archival
106 materials, special research services, and publications.

107 (6) The division may establish and maintain as part of the
108 state archives a Florida State Photographic Collection. The
109 division shall:

110 (a) Acquire, identify, appraise, arrange, index, restore,
111 and preserve photographs, motion pictures, drawings, and other
112 iconographic material considered appropriate for preservation.

113 (b) Initiate appropriate action to acquire, identify,
114 preserve, recover, and restore photographs, motion pictures, and
115 other iconographic material considered appropriate for
116 preservation.

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117 (c) Provide for an index to the historical photographic
118 holdings of the Florida State Photographic Collection and the
119 State of Florida.

120
121 Any use or reproduction of material deposited with the Florida
122 State Photographic Collection shall be allowed pursuant to the
123 provisions of paragraph (1)(b) and subsection (4) provided that
124 appropriate credit for its use is given.

125 (7) The division shall adopt ~~promulgate such~~ rules ~~as are~~
126 ~~necessary~~ to implement the provisions of this act.

127 Section 2. Section 257.38, Florida Statutes, is amended to
128 read:

129 257.38 Manuscripts or other archival material held by the
130 Florida State Archives or a local government archive; public-
131 records ~~public records~~ exemption.-

132 (1) As used in this section, the term "nonpublic manuscript
133 or other archival material" means a manuscript or archival
134 material that is not otherwise made or received pursuant to law
135 or ordinance or in connection with the transaction of official
136 business by any governmental agency.

137 (2) All public records transferred to the custody of the
138 division are subject to s. 119.07(1), except that any public
139 record or other record that is provided by law to be
140 confidential or prohibited from inspection by the public shall
141 be made accessible only after a period of 50 years after the
142 date of the creation of the record.

143 (3) Any nonpublic manuscript or other archival material
144 that is placed in the keeping of the division under special
145 terms and conditions shall be made accessible to the public only

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146 in accordance with such terms and conditions and is exempt from
147 s. 119.07(1) to the extent necessary to meet the special terms
148 and conditions.

149 (4)~~(1)~~ Any nonpublic A manuscript or other archival
150 material that is donated to and held by an official archive of a
151 municipality or county contingent upon special terms and
152 conditions that limit the right to inspect or copy such
153 manuscript or other material, ~~but which manuscript or archival~~
154 ~~material is not otherwise made or received pursuant to law or~~
155 ~~ordinance or in connection with the transaction of official~~
156 ~~business by any governmental agency,~~ is confidential and exempt
157 from s. 119.07(1) and s. 24(a), Art. I of the State
158 Constitution, except as otherwise provided in the special terms
159 and conditions. ~~However,~~ A nonpublic manuscript or other
160 archival material received under special terms and conditions as
161 authorized ~~provided~~ by this subsection ~~section~~ shall be made
162 available for inspection and copying 50 years after the date of
163 the creation of the nonpublic manuscript or other archival
164 material, at an earlier date specified in the special terms or
165 conditions, or upon a showing of good cause before a court of
166 competent jurisdiction.

167 ~~(2) Subsection (1) is subject to the Open Government Sunset~~
168 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
169 ~~on October 2, 2009, unless reviewed and saved from repeal~~
170 ~~through reenactment by the Legislature.~~

171 Section 3. This act shall take effect October 1, 2009.