

By the Committees on Governmental Oversight and Accountability;
and Governmental Oversight and Accountability

585-03030-09

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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 of Library and Information Services, placed
12 in the keeping of the division, or donated to an
13 official archive of a municipality or county; saving
14 the exemption from repeal under the Open Government
15 Sunset Review Act; deleting provisions that provide
16 for repeal of the exemption; providing an effective
17 date.

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

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

23 257.35 Florida State Archives.—

24 (1) There is created within the Division of Library and
25 Information Services of the Department of State the Florida
26 State Archives for the preservation of those public records, as
27 defined in s. 119.011(12) ~~s. 119.011~~, manuscripts, and other
28 archival material that have been determined by the division to
29 have sufficient historical or other value to warrant their

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30 continued preservation and have been accepted by the division
31 for deposit in its custody. It is the duty and responsibility of
32 the division to:

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

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

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

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

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59 archives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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117 preservation.

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

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

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

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

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

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

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

144 (3) Any nonpublic manuscript or other archival material
145 that is placed in the keeping of the division under special

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146 terms and conditions shall be made accessible to the public only
147 in accordance with such terms and conditions and is exempt from
148 s. 119.07(1) to the extent necessary to meet the special terms
149 and conditions.

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

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

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