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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2009	.	
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The Committee on Communications, Energy, and Public Utilities
(King) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Communications and broadband company proprietary
business information; public records exemption.-

(1) Any proprietary business information obtained from a
communications company or broadband company by the Department of
Management Services, or any person or agency authorized by the
department, is confidential and exempt from s. 119.07(1),



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12 Florida Statutes, and s. 24(a), Art. I of the State
13 Constitution.

14 (2) For the purposes of the exemption provided in
15 subsection (1), the term "proprietary confidential business
16 information" includes any proprietary or otherwise confidential
17 information or documentation, including plans, billing and
18 payment records, trade secrets, or other information, and must
19 be specifically marked and identified as such at the time
20 initially provided to the department, that is intended to be and
21 is treated by the communications or broadband company as
22 confidential and is not otherwise publicly available to the same
23 extent and in the same format as requested by the department.
24 Proprietary confidential business information does not include
25 aggregate information related to the geographic scope of the
26 availability of broadband services or the speed of services that
27 are available in the state so long as the information does not
28 directly or indirectly identify a provider of broadband
29 services.

30 (3) Any person who willfully and knowingly violates this
31 section commits a felony of the third degree, punishable as
32 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
33 Statutes.

34 (4) This section is subject to the Open Government Sunset
35 Review Act in accordance with s. 119.15, Florida Statutes, and
36 shall stand repealed on October 2, 2014, unless reviewed and
37 saved from repeal through reenactment by the Legislature.

38 Section 2. The Legislature finds that it is a public
39 necessity that proprietary business information obtained from a
40 communications company or broadband company by the Department of



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41 Management Services, or any person or agency authorized by the
42 department, be held confidential and exempt from public records
43 requirements. Disclosure of proprietary confidential business
44 information would adversely affect the business interests of
45 communications and broadband companies providing such
46 information by harming them in the marketplace and compromising
47 the security of the communications network. Further, disclosure
48 of such proprietary confidential business information would
49 impair competition in the communications industry. Competitors
50 can use such information to impede full and fair competition in
51 the communications marketplace to the disadvantage of the
52 consumers of communications services. Thus, it is the finding of
53 the Legislature that proprietary business information obtained
54 from a communications company or broadband company by the
55 Department of Management Services, or any person or agency
56 authorized by the department, must be held confidential and
57 exempt from disclosure under s. 119.07(1), Florida Statutes, and
58 s. 24(a), Art. I of the State Constitution.

59 Section 3. This act shall take effect on the same date that
60 SB 2092 or similar legislation takes effect, if such legislation
61 is adopted in the same legislative session or an extension
62 thereof and becomes law.

63
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete everything before the enacting clause
67 and insert:

68 A bill to be entitled
69 An act relating to public records; providing an



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70 exemption from public records requirements for
71 specified proprietary business information obtained
72 from a communications company or broadband company by
73 the Department of Management Services; providing for
74 future review and repeal; providing a statement of
75 public necessity; providing a contingent effective
76 date.