

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7021 PCB GAP 09-08 OGSR/Councils on Children's Services and Juvenile Welfare Boards

SPONSOR(S): Governmental Affairs Policy Committee and Schenck

TIED BILLS: **IDEN./SIM. BILLS:** SB 748

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Governmental Affairs Policy Committee	10 Y, 0 N	Williamson	Williamson
1)	Economic Development & Community Affairs Policy Council		Williamson	Tinker
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Counties may create special, countywide districts for the sole purpose of funding children's services. The governing boards of the special districts are councils on children's services (council). Florida has 11 active councils.

Current law provides a public record exemption for personal identifying information of a child or the parent or guardian of the child held by a council, juvenile welfare board, or other similar entity, or by a service provider or researcher under contract with such entity.

The bill reenacts the public record exemption, which will repeal on October 2, 2009, if this bill does not become law. It also makes conforming changes and editorial changes.

The bill does not appear to have a fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Open Government Sunset Review Act

The Open Government Sunset Review Act¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.² If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created³ then a public necessity statement and a two-thirds vote for passage are not required.

Council on Children's Services

In 1986, the Legislature authorized counties to create special, countywide districts for the sole purpose of funding children's services.⁴ Counties may create:

¹ Section 119.15, F.S.

² Section 24(c), Art. I of the State Constitution.

³ An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

⁴ Chapter 86-197, L.O.F.

- Independent special districts, for which the county governing body must seek voter approval to levy annual *ad valorem* property taxes;⁵ or
- Dependent special districts that are supported by appropriation and are authorized to accept grants and donations from public and private sources.⁶

The governing boards of the special districts are councils on children's services (council).⁷ Florida has 11 active councils.

Councils are authorized to exercise the following powers and functions:

- Provide preventive, developmental, treatment, rehabilitative, and other services for children;
- Provide funds to other agencies (except the public school system) that operate for the benefit of children;
- Collect data and conduct research to determine the needs of the children in the county;
- Coordinate with providers of children's services to prevent duplication of services;
- Lease or buy necessary real estate, equipment, and personal property; and
- Employ necessary personnel.⁸

Councils receive personal identifying information about children and their families.

Public Record Exemption under Review

In 2004, the Legislature created a public record exemption for personal identifying information of a child or the parent or guardian of the child held by a council, juvenile welfare board, or other similar entity, or by a service provider or researcher under contract with such entity.⁹ The information is made exempt only.¹⁰

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2009, unless reenacted by the Legislature.

EFFECT OF BILL

The bill removes the repeal date, thereby reenacting the public record exemption. It also makes conforming changes and editorial changes.

B. SECTION DIRECTORY:

Section 1 amends s. 125.901, F.S., to reenact the public record exemption for councils on children's services.

Section 2 provides an effective date of October 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁵ Section 125.901(1), F.S. Independent special districts are located in Broward, Hillsborough, Martin, Miami-Dade, Okeechobee, Palm Beach, Pinellas and St. Lucie counties. See Florida Children's Services Council (hereinafter, "FCSC"), *About Children's Services Councils*, http://www.floridacsc.org/about_csc/index.php#anatomy (last visited March 2, 2009).

⁶ Section 125.901(7), F.S. Dependent special districts are located in Duval, Highlands, and Lake Counties. See FCSC, *About Children's Services Councils*, http://www.floridacsc.org/about_csc/index.php#anatomy (last visited March 2, 2009).

⁷ Section 125.901(1)(a), F.S.

⁸ Section 125.901(2)(a), F.S.

⁹ Section 125.901(11)(a), F.S.; Chapter 2004-86, L.O.F.

¹⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985)

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.