

HB 1211

2010

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 119.001, F.S.; designating the title of ch.
4 119, F.S., as the "Open Government Act"; amending s.
5 119.01, F.S.; including an Open Government Bill of Rights
6 within the general state policy on public records;
7 delineating rights of persons and requirements of agencies
8 under the bill of rights; amending s. 119.011, F.S.;
9 defining the terms "actual cost to duplicate," "exempt,"
10 "confidential and exempt," and "trade secret"; changing a
11 cross-reference within the definition of "exemption" to
12 conform to the transfer of s. 286.011, F.S., by this act;
13 amending s. 119.07, F.S.; revising and clarifying
14 provisions which require a custodian of public records to
15 furnish a copy or certified copy of a public record;
16 revising fees for duplication of specified documents;
17 authorizing an agency to reduce or waive duplication fees
18 for a valid public purpose; requiring the Department of
19 State to develop and implement consistent policies
20 regarding fee reductions and waivers; conforming
21 references; removing provisions with respect to a fee for
22 remote electronic access to public records and a special
23 service charge for the inspection or copying of public
24 records of extraordinary nature or volume that are
25 transferred to and revised within other sections of
26 Florida Statutes set forth in this act; creating s.
27 119.13, F.S., and transferring, renumbering, and amending
28 s. 286.011, F.S.; revising and clarifying provisions

29 governing public meetings and meeting records and access
30 to public meetings; providing that all meetings of any
31 collegial body of any agency at which an official act is
32 to be taken or at which public business will be transacted
33 or discussed are declared to be public meetings open to
34 the public at all times except as otherwise provided in
35 the State Constitution; requiring agencies to provide
36 reasonable notice of such meetings; requiring agencies to
37 ensure that minutes of a public meeting are taken and
38 promptly recorded; requiring that meeting minutes be open
39 to public inspection; prohibiting an agency from holding a
40 public meeting at any facility or location that
41 discriminates on the basis of sex, age, race, creed,
42 color, origin, or economic status or that operates in such
43 a manner as to unreasonably restrict public access to the
44 facility or location; removing provisions governing court
45 jurisdiction, penalties, and discussions of pending
46 litigation that are transferred to or included within
47 other sections of Florida Statutes set forth in this act;
48 repealing s. 286.0111, F.S., relating to the applicability
49 of the Open Government Sunset Review Act to certain
50 exemptions from requirements for public meetings and
51 recordkeeping by governmental entities; creating s.
52 119.31, F.S., and transferring, renumbering, and amending
53 s. 286.0113, F.S., relating to general exemptions from
54 public meetings, and s. 286.011(8), F.S., relating to the
55 authority of any board or commission of any state agency
56 or authority or any agency or authority of any county,

57 | municipal corporation, or political subdivision, and the
58 | chief administrative or executive officer of the
59 | governmental entity, to meet in private with the entity's
60 | attorney to discuss pending litigation to which the entity
61 | is presently a party before a court or administrative
62 | agency under specified conditions; organizing provisions,
63 | conforming references, and making editorial changes;
64 | creating s. 119.132, F.S., and transferring, renumbering,
65 | and amending s. 286.012, F.S.; organizing provisions;
66 | creating s. 119.133, F.S., and transferring, renumbering,
67 | and amending s. 286.26, F.S.; revising terminology;
68 | amending s. 119.15, F.S., relating to legislative review
69 | and repeal or reenactment of exemptions from public
70 | meeting and public records requirements; conforming cross
71 | references; providing for repeal of exemptions from public
72 | meeting and public records requirements in the 10th year
73 | after reenactment, unless the Legislature acts to reenact
74 | the exemption; providing that a law that enacts a new
75 | exemption or substantially amends an existing exemption
76 | must state that the exemption must be reviewed by the
77 | Legislature before its scheduled repeal date, and every 10
78 | years thereafter; creating s. 119.20, F.S., and
79 | transferring, renumbering, and amending s. 119.10, F.S.;
80 | providing criminal and noncriminal penalties for
81 | violations of public records and public meetings laws;
82 | creating s. 119.21, F.S., and transferring, renumbering,
83 | and amending s. 119.11, F.S.; providing that the circuit
84 | courts of the state shall have jurisdiction to issue

85 | injunctions to enforce the purposes of the Open Government
 86 | Act; creating s. 119.22, F.S., and transferring,
 87 | renumbering, and amending s. 119.12, F.S.; authorizing the
 88 | court to assess and award reasonable costs of enforcement,
 89 | including reasonable attorney's fees, in specified civil
 90 | actions; amending ss. 20.052, 20.19, 20.41, 90.502,
 91 | 106.25, 110.201, 112.3215, 112.324, 119.011, 119.07,
 92 | 119.15, 120.54, 125.355, 154.207, 166.045, 212.055,
 93 | 213.732, 215.442, 215.5602, 255.20, 259.1053, 281.301,
 94 | 282.711, 288.709, 288.955, 288.9551, 288.9625, 288.9626,
 95 | 288.982, 288.985, 292.055, 322.125, 331.326, 339.410,
 96 | 350.031, 365.172, 381.0055, 381.84, 381.85, 381.922,
 97 | 383.412, 394.657, 394.907, 395.1056, 395.3035, 395.3036,
 98 | 395.51, 397.419, 400.0077, 400.119, 401.425, 402.165,
 99 | 402.166, 402.22, 406.075, 408.7056, 409.2558, 409.91196,
 100 | 413.0111, 413.615, 414.106, 440.3851, 447.205, 447.605,
 101 | 455.217, 455.225, 455.232, 455.32, 456.017, 456.073,
 102 | 456.082, 466.022, 471.038, 472.0131, 472.02011, 472.033,
 103 | 497.172, 624.40851, 624.82, 624.86, 627.0628, 627.091,
 104 | 627.093, 627.311, 627.3121, 627.351, 627.6488, 631.724,
 105 | 631.932, 633.175, 641.68, 641.75, 655.0321, 723.0611,
 106 | 741.3165, 766.101, 768.28, 910.005, 910.16, 921.0022,
 107 | 943.031, 943.0314, 945.602, 945.6032, 951.26, 985.8025,
 108 | 1000.39, 1002.33, 1003.57, 1003.62, 1003.63, 1004.226,
 109 | 1004.30, 1004.43, 1004.447, 1004.4472, 1005.38, 1006.07,
 110 | 1013.14, and 1013.15, F.S.; conforming cross references;
 111 | providing an effective date.

HB 1211

2010

113 WHEREAS, an open and accessible government is the key to
114 establishing and maintaining the people's trust and confidence
115 in their government and its ability to effectively serve its
116 residents, and

117 WHEREAS, the State of Florida has a long history of
118 providing public access to the records and meetings of public
119 entities, and

120 WHEREAS, Florida must continually strive to be a national
121 leader in open government reform, and

122 WHEREAS, on June 19, 2007, Governor Charlie Crist created
123 the Commission on Open Government Reform to review, evaluate,
124 and issue recommendations regarding Florida's public records and
125 public meeting laws, and

126 WHEREAS, the Commission on Open Government Reform received
127 public testimony requesting the need for greater ease of access
128 to public records and public meetings, the need to increase the
129 level of courteousness and respect shown to state residents
130 seeking access to public records, and the need to create a
131 culture which will increase the public's trust and confidence in
132 their government and its ability to serve the people, and

133 WHEREAS, streamlining and clarifying laws and policies
134 governing public records and public meetings will result in
135 making government more open, accessible, and accountable to the
136 residents of this state, NOW, THEREFORE,

137

138 Be It Enacted by the Legislature of the State of Florida:

139

HB 1211

2010

140 Section 1. Section 119.001, Florida Statutes, is created
 141 to read:

142 119.001 Short Title.—This chapter may be cited as the
 143 "Open Government Act."

144 Section 2. Section 119.01, Florida Statutes, is amended to
 145 read:

146 119.01 General state policy on public records; Open
 147 Government Bill of Rights.—

148 (1) It is the policy of this state that all state, county,
 149 and municipal records are open for personal inspection and
 150 copying by any person. Providing access to public records is a
 151 duty of each agency.

152 (2) (a) The Open Government Bill of Rights includes the
 153 following principles:

154 1. Access to public records and public meetings are rights
 155 secured under this chapter and s. 24, Art. I of the State
 156 Constitution.

157 2. Every person has the right to:

158 a. Inspect or copy any public record that is made or
 159 received in connection with the official business of any public
 160 body, officer, or employee, unless the record is specifically
 161 exempt from this requirement.

162 b. Attend any meeting of a collegial public body at which
 163 official public business is to be transacted or discussed,
 164 unless the meeting is specifically exempt from this requirement.

165 3. Every person seeking access to a public record is
 166 entitled to be treated with respect, courtesy, and
 167 professionalism.

HB 1211

2010

168 4. A public records request need not be made in writing
169 unless otherwise explicitly required by law.

170 5. An agency must promptly acknowledge the receipt of a
171 public records request.

172 6. Fees to produce public records may not exceed the
173 amount authorized by law. Every person has the right to receive
174 an itemized invoice of the estimated cost to produce the public
175 record that is requested.

176 (b) All agencies must:

177 1. Comply with the Open Government Bill of Rights for the
178 purpose of safeguarding and protecting a person's right to
179 access public records and meetings.

180 2. Conspicuously post the Open Government Bill of Rights
181 on the agency's website and at the agency's headquarters.

182 3. Promptly acknowledge requests to inspect or copy public
183 records.

184 (c) If a specific statute requires that a request for a
185 public record be made in writing, the statutory citation must be
186 provided to the person requesting the public record.

187 (d) An itemized invoice of the estimated cost to produce a
188 requested public record must include the statutory citation that
189 authorizes the imposition of fees and that is specifically
190 related to the requested public record.

191 (3) ~~(2)~~ (a) Automation of public records must not erode the
192 right of access to those records. As each agency increases its
193 use of and dependence on electronic recordkeeping, each agency
194 must provide reasonable public access to records electronically
195 maintained and must ensure that exempt or confidential records

HB 1211

2010

196 are not disclosed except as otherwise permitted by law.

197 (b) When designing or acquiring an electronic
198 recordkeeping system, an agency must consider whether such
199 system is capable of providing data in some common format such
200 as, but not limited to, the American Standard Code for
201 Information Interchange.

202 (c) An agency may not enter into a contract for the
203 creation or maintenance of a public records database if that
204 contract impairs the ability of the public to inspect or copy
205 the public records of the agency, including public records that
206 are online or stored in an electronic recordkeeping system used
207 by the agency.

208 (d) Subject to the restrictions of copyright and trade
209 secret laws and public records exemptions, agency use of
210 proprietary software must not diminish the right of the public
211 to inspect and copy a public record.

212 (e) Providing access to public records by remote
213 electronic means is an additional method of access that agencies
214 should strive to provide to the extent feasible. If an agency
215 provides access to public records by remote electronic means,
216 such access should be provided in the most cost-effective and
217 efficient manner available to the agency providing the
218 information.

219 (f) Each agency that maintains a public record in an
220 electronic recordkeeping system shall provide to any person,
221 pursuant to this chapter, a copy of any public record in that
222 system which is not exempted by law from public disclosure. An
223 agency must provide a copy of the record in the medium requested

HB 1211

2010

224 | if the agency maintains the record in that medium, and the
 225 | agency may charge a fee in accordance with this chapter. For the
 226 | purpose of satisfying a public records request, the fee to be
 227 | charged by an agency if it elects to provide a copy of a public
 228 | record in a medium not routinely used by the agency, or if it
 229 | elects to compile information not routinely developed or
 230 | maintained by the agency or that requires a substantial amount
 231 | of manipulation or programming, must be in accordance with s.
 232 | 119.07(4).

233 | ~~(4)(3)~~ If public funds are expended by an agency in
 234 | payment of dues or membership contributions for any person,
 235 | corporation, foundation, trust, association, group, or other
 236 | organization, all the financial, business, and membership
 237 | records of that person, corporation, foundation, trust,
 238 | association, group, or other organization which pertain to the
 239 | public agency are public records and subject to the provisions
 240 | of s. 119.07.

241 | Section 3. Subsections (1) and (8) of section 119.011,
 242 | Florida Statutes, are amended, and subsection (15) is added to
 243 | that section, to read:

244 | 119.011 Definitions.—As used in this chapter, the term:

245 | (1) (a) "Actual cost to duplicate ~~of duplication~~" means the
 246 | actual direct cost of the resources expended by the agency in
 247 | complying with a public records request, including the cost of
 248 | materials and supplies, information technology resources, and
 249 | staff costs as provided in this subsection.

250 | (b) Staff costs may be charged for only a public record
 251 | request that requires more than 30 minutes of a staff member's

252 time to complete. Staff costs must be calculated based on the
 253 base hourly rate of the lowest paid staff member who is capable
 254 of providing the requested public record, including the cost of
 255 any supervisory assistance.

256 (c) For public records that are used, stored, or
 257 maintained electronically, if the person requesting the public
 258 record requests that the record be provided in a format that is
 259 not ordinarily used, stored, or maintained, the cost to produce
 260 or convert the information into the requested format may be
 261 calculated as part of the actual cost to duplicate ~~cost of the~~
 262 ~~material and supplies used to duplicate the public record, but~~
 263 ~~does not include labor cost or overhead cost associated with~~
 264 such duplication.

265 (8) (a) "Exemption" means a provision of general law which
 266 provides that a specified record or meeting, or portion thereof,
 267 is not subject to the access requirements of s. 119.07(1), s.
 268 119.13 ~~286.011~~, or s. 24, Art. I of the State Constitution.

269 (b) "Exempt" and "confidential and exempt" mean that a
 270 specified record or meeting, or portion thereof, is not subject
 271 to the access requirements of s. 119.07(1), s. 119.13(1), or s.
 272 24, Art. I of the State Constitution, and that the record or
 273 record of the meeting may be released only to those persons and
 274 entities who are designated by law to view the record or attend
 275 the meeting.

276 (15) "Trade secret" has the same meaning as provided in s.
 277 688.002.

278 Section 4. Subsection (2), paragraph (d) of subsection
 279 (3), and subsections (4) and (7) of section 119.07, Florida
 280 Statutes, are amended to read:

281 119.07 Inspection and copying of records; photographing
 282 public records; fees; exemptions.—

283 (2) (a) As an additional means of inspecting or copying
 284 public records, a custodian of public records may provide access
 285 to public records by remote electronic means, provided exempt or
 286 confidential information is not disclosed.

287 (b) The custodian of public records shall provide
 288 safeguards to protect the contents of public records from
 289 unauthorized remote electronic access or alteration and to
 290 prevent the disclosure or modification of those portions of
 291 public records which are exempt or confidential from subsection
 292 (1) or s. 24, Art. I of the State Constitution.

293 ~~(c) Unless otherwise required by law, the custodian of~~
 294 ~~public records may charge a fee for remote electronic access,~~
 295 ~~granted under a contractual arrangement with a user, which fee~~
 296 ~~may include the direct and indirect costs of providing such~~
 297 ~~access. Fees for remote electronic access provided to the~~
 298 ~~general public shall be in accordance with the provisions of~~
 299 ~~this section.~~

300 (3)

301 (d) Photographing of public records shall be done in the
 302 room where the public records are kept. If, in the judgment of
 303 the custodian of public records, this is impossible or
 304 impracticable, photographing shall be done in another room or
 305 place, as nearly adjacent as possible to the room where the

HB 1211

2010

306 public records are kept, to be determined by the custodian of
307 public records. Where provision of another room or place for
308 photographing is required, the expense of providing the same
309 shall be paid by the person desiring to photograph the public
310 record pursuant to paragraph (4) (d) ~~(4) (e)~~.

311 (4) The custodian of public records shall furnish a copy
312 or a certified copy of the public record when the person
313 requesting the record pays the fee as provided in this section,
314 or as otherwise specifically provided ~~upon payment of the fee~~
315 ~~prescribed~~ by law. If a fee is not prescribed by law, the
316 following fees are authorized:

317 (a) For duplicated copies of documents sized 8 1/2 by 14
318 inches or less:

319 1. Up to 15 cents per page for each one-sided copy. ~~for~~
320 ~~duplicated copies of not more than 14 inches by 8 1/2 inches;~~

321 2. Up to 20 cents per page for each ~~No more than an~~
322 ~~additional 5 cents for each two-sided copy;~~ and

323 3. Up to \$1 for each duplicated copy requested to be
324 certified ~~For all other copies, the actual cost of duplication~~
325 ~~of the public record.~~

326 (b) The actual cost to duplicate may be charged for:

327 1. Duplicated copies of documents sized larger than 14
328 inches by 8 1/2 inches. ~~The charge for~~

329 2. Copies of county maps or aerial photographs supplied by
330 county constitutional officers ~~may also include a reasonable~~
331 ~~charge for the labor and overhead associated with their~~
332 duplication.

333 3. Copies of public records that are electronically used,

HB 1211

2010

334 stored, or maintained by an agency, including any cost to
335 convert or export the record into the electronic format
336 requested.

337 (c) An agency may reduce or waive the fees provided in
338 this section for a valid public purpose, including nonprofit
339 activities and academic research. The Department of State must
340 develop and implement consistent policies regarding any fee
341 reductions or waivers ~~charge up to \$1 per copy for a certified~~
342 ~~copy of a public record.~~

343 ~~(d) If the nature or volume of public records requested to~~
344 ~~be inspected or copied pursuant to this subsection is such as to~~
345 ~~require extensive use of information technology resources or~~
346 ~~extensive clerical or supervisory assistance by personnel of the~~
347 ~~agency involved, or both, the agency may charge, in addition to~~
348 ~~the actual cost of duplication, a special service charge, which~~
349 ~~shall be reasonable and shall be based on the cost incurred for~~
350 ~~such extensive use of information technology resources or the~~
351 ~~labor cost of the personnel providing the service that is~~
352 ~~actually incurred by the agency or attributable to the agency~~
353 ~~for the clerical and supervisory assistance required, or both.~~

354 (d) ~~(e)~~1. Where provision of another room or place is
355 necessary to photograph public records, the expense of providing
356 the records ~~same~~ shall be paid by the person desiring to
357 photograph the public records.

358 2. The custodian of public records may charge the person
359 making the photographs for supervision services at a rate of
360 compensation to be agreed upon by the person desiring to make
361 the photographs and the custodian of public records. If they

HB 1211

2010

362 fail to agree as to the appropriate charge, the charge shall be
 363 determined by the custodian of public records.

364 (7) An exemption from this section does not imply an
 365 exemption from s. 119.13(1) ~~s. 286.011~~. The exemption from s.
 366 119.13(1) ~~s. 286.011~~ must be expressly provided.

367 Section 5. Subsections (1) through (7) of section 286.011,
 368 Florida Statutes, are transferred, renumbered as section 119.13,
 369 Florida Statutes, and amended to read:

370 119.13 ~~286.011~~ Public meetings and records of meetings;
 371 access to public meetings inspection; criminal and civil
 372 penalties.-

373 (1) Except as otherwise provided in the State
 374 Constitution, all meetings of any collegial body of any agency
 375 ~~board or commission of any state agency or authority or of any~~
 376 ~~agency or authority of any county, municipal corporation, or~~
 377 ~~political subdivision, except as otherwise provided in the~~
 378 ~~Constitution,~~ at which official acts are to be taken or at which
 379 public business will be transacted or discussed are declared to
 380 be public meetings open to the public at all times. A, and no
 381 resolution, rule, or formal action is not ~~shall be considered~~
 382 binding unless it is adopted or taken at a public meeting ~~except~~
 383 ~~as taken or made at such meeting.~~ The agency ~~board or commission~~
 384 must provide reasonable notice of all such meetings.

385 (2) The agency shall ensure that minutes of a public
 386 meeting are taken and ~~of any such board or commission of any~~
 387 ~~such state agency or authority shall be promptly recorded.~~
 388 Meeting minutes, and ~~such records~~ shall be open to public
 389 inspection. ~~The circuit courts of this state shall have~~

HB 1211

2010

390 ~~jurisdiction to issue injunctions to enforce the purposes of~~
391 ~~this section upon application by any citizen of this state.~~

392 ~~(3) (a) Any public officer who violates any provision of~~
393 ~~this section is guilty of a noncriminal infraction, punishable~~
394 ~~by fine not exceeding \$500.~~

395 ~~(b) Any person who is a member of a board or commission or~~
396 ~~of any state agency or authority of any county, municipal~~
397 ~~corporation, or political subdivision who knowingly violates the~~
398 ~~provisions of this section by attending a meeting not held in~~
399 ~~accordance with the provisions hereof is guilty of a misdemeanor~~
400 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
401 ~~775.083.~~

402 ~~(c) Conduct which occurs outside the state which would~~
403 ~~constitute a knowing violation of this section is a misdemeanor~~
404 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
405 ~~775.083.~~

406 ~~(4) Whenever an action has been filed against any board or~~
407 ~~commission of any state agency or authority or any agency or~~
408 ~~authority of any county, municipal corporation, or political~~
409 ~~subdivision to enforce the provisions of this section or to~~
410 ~~invalidate the actions of any such board, commission, agency, or~~
411 ~~authority, which action was taken in violation of this section,~~
412 ~~and the court determines that the defendant or defendants to~~
413 ~~such action acted in violation of this section, the court shall~~
414 ~~assess a reasonable attorney's fee against such agency, and may~~
415 ~~assess a reasonable attorney's fee against the individual filing~~
416 ~~such an action if the court finds it was filed in bad faith or~~
417 ~~was frivolous. Any fees so assessed may be assessed against the~~

418 ~~individual member or members of such board or commission;~~
 419 ~~provided, that in any case where the board or commission seeks~~
 420 ~~the advice of its attorney and such advice is followed, no such~~
 421 ~~fees shall be assessed against the individual member or members~~
 422 ~~of the board or commission. However, this subsection shall not~~
 423 ~~apply to a state attorney or his or her duly authorized~~
 424 ~~assistants or any officer charged with enforcing the provisions~~
 425 ~~of this section.~~

426 ~~(5) Whenever any board or commission of any state agency~~
 427 ~~or authority or any agency or authority of any county, municipal~~
 428 ~~corporation, or political subdivision appeals any court order~~
 429 ~~which has found said board, commission, agency, or authority to~~
 430 ~~have violated this section, and such order is affirmed, the~~
 431 ~~court shall assess a reasonable attorney's fee for the appeal~~
 432 ~~against such board, commission, agency, or authority. Any fees~~
 433 ~~so assessed may be assessed against the individual member or~~
 434 ~~members of such board or commission; provided, that in any case~~
 435 ~~where the board or commission seeks the advice of its attorney~~
 436 ~~and such advice is followed, no such fees shall be assessed~~
 437 ~~against the individual member or members of the board or~~
 438 ~~commission.~~

439 ~~(3)-(6)~~ An agency may not hold ~~All persons subject to~~
 440 ~~subsection (1) are prohibited from holding meetings at any~~
 441 ~~facility or location~~ that: which

442 (a) ~~Discriminates on the basis of sex, age, race, creed,~~
 443 ~~color, origin, or economic status; or which~~

444 (b) ~~Operates in such a manner as to unreasonably restrict~~
 445 ~~public access to the such a facility or location.~~

446 ~~(7) Whenever any member of any board or commission of any~~
 447 ~~state agency or authority or any agency or authority of any~~
 448 ~~county, municipal corporation, or political subdivision is~~
 449 ~~charged with a violation of this section and is subsequently~~
 450 ~~acquitted, the board or commission is authorized to reimburse~~
 451 ~~said member for any portion of his or her reasonable attorney's~~
 452 ~~fees.~~

453 Section 6. Section 286.0111, Florida Statutes, is
 454 repealed.

455 Section 7. Section 286.0113, Florida Statutes, is
 456 transferred, renumbered as section 119.131, Florida Statutes,
 457 and amended, and subsection (8) of section 286.011, Florida
 458 Statutes, is transferred, redesignated as subsection (3) of that
 459 section, and amended, to read:

460 119.131 ~~286.0113~~ Public meetings exemptions ~~General~~
 461 ~~exemptions from public meetings.-~~

462 (1) SECURITY SYSTEM PLANS.-That portion of a meeting that
 463 would reveal a security system plan or portion thereof made
 464 confidential and exempt by s. 119.071(3) (a) is exempt from s.
 465 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 466 Constitution.

467 (2) COMPETITIVE PROCUREMENTS.-

468 (a) A meeting at which a negotiation with a vendor is
 469 conducted pursuant to s. 287.057(3) is exempt from s. 119.13(1)
 470 ~~286.011~~ and s. 24(b), Art. I of the State Constitution.

471 (b)1. A complete recording shall be made of any meeting
 472 made exempt in paragraph (a). No portion of the meeting may be
 473 held off the record.

474 2. The recording required under subparagraph 1. is exempt
 475 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 476 until such time as the agency provides notice of a decision or
 477 intended decision pursuant to s. 120.57(3)(a) or until 20 days
 478 after the final competitive sealed replies are all opened,
 479 whichever occurs earlier.

480 3. If the agency rejects all sealed replies, the recording
 481 remains exempt from s. 119.07(1) and s. 24(a), Art. I of the
 482 State Constitution until such time as the agency provides notice
 483 of a decision or intended decision pursuant to s. 120.57(3)(a)
 484 concerning the reissued invitation to negotiate or until the
 485 agency withdraws the reissued invitation to negotiate. A
 486 recording is not exempt for longer than 12 months after the
 487 initial agency notice rejecting all replies.

488 (c) This subsection is subject to the Open Government
 489 Sunset Review Act in accordance with s. 119.15 and shall stand
 490 repealed on October 2, 2011, unless reviewed and saved from
 491 repeal through reenactment by the Legislature.

492 ~~(3)-(8)~~ PENDING LITIGATION.—Notwithstanding s. 119.13(1)
 493 ~~the provisions of subsection (1),~~ any board or commission of any
 494 state agency or authority or any agency or authority of any
 495 county, municipal corporation, or political subdivision, and the
 496 chief administrative or executive officer of the governmental
 497 entity, may meet in private with the entity's attorney to
 498 discuss pending litigation to which the entity is presently a
 499 party before a court or administrative agency, if provided that
 500 the following conditions are met:

501 (a) The entity's attorney must ~~shall~~ advise the entity at

502 a public meeting that he or she desires advice concerning the
 503 litigation.

504 (b) The subject matter of the meeting shall be confined to
 505 settlement negotiations or strategy sessions related to
 506 litigation expenditures.

507 (c) The entire session shall be recorded by a certified
 508 court reporter. The reporter shall record the times of
 509 commencement and termination of the session, all discussion and
 510 proceedings, the names of all persons present at any time, and
 511 the names of all persons speaking. No portion of the session
 512 shall be off the record. The court reporter's notes shall be
 513 fully transcribed and filed with the entity's clerk within a
 514 reasonable time after the meeting.

515 (d) The entity shall give reasonable public notice of the
 516 time and date of the attorney-client session and the names of
 517 persons who will be attending the session. The session shall
 518 commence at an open meeting at which the persons chairing the
 519 meeting shall announce the commencement and estimated length of
 520 the attorney-client session and the names of the persons
 521 attending. At the conclusion of the attorney-client session, the
 522 meeting shall be reopened, and the person chairing the meeting
 523 shall announce the termination of the session.

524 (e) The transcript shall be made part of the public record
 525 upon conclusion of the litigation.

526 Section 8. Section 286.012, Florida Statutes, is
 527 transferred, renumbered as section 119.132, Florida Statutes,
 528 and amended to read:

529 119.132 ~~286.012~~ Voting requirement at meetings of

HB 1211

2010

530 governmental bodies.—

531 (1) A ~~No~~ member of any state, county, or municipal
 532 governmental board, commission, or agency who is present at any
 533 meeting of any such body at which an official decision, ruling,
 534 or other official act is to be taken or adopted may not abstain
 535 from voting in regard to any such decision, ruling, or act. ~~;~~ ~~and~~

536 (2) A vote shall be recorded or counted for each ~~such~~
 537 member present, except when, with respect to any such member,
 538 there is, or appears to be, a possible conflict of interest
 539 under the provisions of s. 112.311, s. 112.313, or s. 112.3143.
 540 In such cases, the ~~said~~ member shall comply with the disclosure
 541 requirements of s. 112.3143.

542 Section 9. Section 286.26, Florida Statutes, is
 543 transferred, renumbered as section 119.133, Florida Statutes,
 544 and amended to read:

545 119.133 ~~286.26~~ Accessibility of public meetings to a
 546 person with a disability ~~the physically handicapped~~.—

547 (1) Whenever any board or commission of any state agency
 548 or authority, or of any agency or authority of any county,
 549 municipal corporation, or other political subdivision, which has
 550 scheduled a meeting at which official acts are to be taken
 551 receives, at least 48 hours before ~~prior to~~ the meeting, a
 552 written request by a ~~physically handicapped~~ person with a
 553 disability to attend the meeting, directed to the chairperson or
 554 director of the ~~such~~ board, commission, agency, or authority,
 555 such chairperson or director shall provide a manner by which the
 556 ~~such~~ person with a disability may attend the meeting at its
 557 scheduled site or reschedule the meeting to a site that ~~which~~

HB 1211

2010

558 would be accessible to the ~~such~~ person with a disability.

559 (2) If the ~~an affected handicapped~~ person with a
 560 disability objects in the written request, ~~nothing contained in~~
 561 ~~the provisions of~~ this section does not permit ~~shall be~~
 562 ~~construed or interpreted to permit~~ the use of human physical
 563 assistance to the person ~~physically handicapped~~ in lieu of the
 564 construction or use of ramps or other mechanical devices in
 565 order to comply with ~~the provisions of~~ this section.

566 Section 10. Subsections (2), (3), and (4) of section
 567 119.15, Florida Statutes, are amended to read:

568 119.15 Legislative review of exemptions from public
 569 meeting and public records requirements.—

570 (2) This section provides for the review and repeal or
 571 reenactment of an exemption from s. 24, Art. I of the State
 572 Constitution and s. 119.07(1) or s. 119.13(1) ~~286.011~~. This act
 573 does not apply to an exemption that:

574 (a) Is required by federal law; or

575 (b) Applies solely to the Legislature or the State Court
 576 System.

577 (3) (a) In the 5th year after enactment of a new exemption
 578 or substantial amendment of an existing exemption, the exemption
 579 shall be repealed on October 2nd of the 5th year, unless the
 580 Legislature acts to reenact the exemption.

581 (b) In the 10th year after reenactment, the exemption
 582 shall be repealed on October 2nd of the 10th year, unless the
 583 Legislature acts to reenact the exemption.

584 (4) (a) A law that enacts a new exemption or substantially
 585 amends an existing exemption must state that the record or

HB 1211

2010

586 meeting is:

- 587 1. Exempt from s. 24, Art. I of the State Constitution;
- 588 2. Exempt from s. 119.07(1) or s. 119.13(1) ~~286.011~~; and
- 589 3. Repealed at the end of 5 years and that the exemption
- 590 must be reviewed by the Legislature before the scheduled repeal
- 591 date, and every 10 years thereafter.

592 (b) For purposes of this section, an exemption is

593 substantially amended if the amendment expands the scope of the

594 exemption to include more records or information or to include

595 meetings as well as records. An exemption is not substantially

596 amended if the amendment narrows the scope of the exemption.

597 (c) This section is not intended to repeal an exemption

598 that has been amended following legislative review before the

599 scheduled repeal of the exemption if the exemption is not

600 substantially amended as a result of the review.

601 Section 11. Section 119.10, Florida Statutes, is

602 transferred, renumbered as section 119.20, Florida Statutes, and

603 amended to read:

604 119.20 ~~119.10~~ Violation of public records and public

605 meetings requirements ~~chapter~~; penalties.—

606 (1) Any person ~~public officer~~ who violates:

607 (a) ~~Violates~~ Any provision of this chapter; or

608 (b) Any other law that relates to access to public records

609 or public meetings, including those that limit public access to

610 such records or meetings,

611

612 commits a noncriminal infraction, punishable by fine not

613 exceeding \$500.

614 (2) ~~(b)~~ Any person who willfully and knowingly violates the
 615 provisions of s. 119.07(1) or s. 119.13(1) is subject to
 616 suspension and removal or impeachment and, in addition, commits
 617 a misdemeanor of the first degree, punishable as provided in s.
 618 775.082 or s. 775.083.

619 (3) ~~(2)~~ Any person who willfully and knowingly violates:
 620 (a) Any of the provisions of this chapter; or
 621 (b) Any other law that relates to access to public records
 622 or public meetings, including those that limit public access to
 623 such records or meetings,
 624
 625 commits a misdemeanor of the first degree, punishable as
 626 provided in s. 775.082 or s. 775.083.

627 (4) ~~(b)~~ Any person who willfully and knowingly violates
 628 section 119.105 commits a felony of the third degree, punishable
 629 as provided in s. 775.082, s. 775.083, or s. 775.084.

630 (5) Conduct that occurs outside the state which would
 631 constitute a willful and knowing violation of this chapter is a
 632 misdemeanor of the second degree, punishable as provided in s.
 633 775.082 or s. 775.083.

634 Section 12. Section 119.11, Florida Statutes, is
 635 transferred, renumbered as section 119.21, Florida Statutes, and
 636 amended to read:

637 119.21 ~~119.11~~ Accelerated hearing; immediate compliance.—

638 (1)(a) The circuit courts of this state shall have
 639 jurisdiction to issue injunctions to enforce the purposes of
 640 this chapter upon application by any person.

641 (b) Whenever an action is filed to enforce ~~the provisions~~

HB 1211

2010

642 ~~of~~ this chapter, the court shall set an immediate hearing,
643 giving the case priority over other pending cases.

644 (2) Whenever a court orders an agency to open its records
645 for inspection in accordance with this chapter, the agency shall
646 comply with the ~~such~~ order within 48 hours, unless otherwise
647 provided by the court issuing the ~~such~~ order, or unless the
648 appellate court issues a stay order within the ~~such~~ 48-hour
649 period.

650 (3) The court may not issue a stay order ~~shall not be~~
651 ~~issued~~ unless it ~~the court~~ determines that there is a
652 substantial probability that opening the records for inspection
653 will result in significant damage.

654 (4) Upon service of a complaint, counterclaim, or cross-
655 claim in a civil action brought to enforce ~~the provisions of~~
656 this chapter, the custodian of the public record that is the
657 subject matter of the ~~such~~ civil action may ~~shall~~ not transfer
658 custody, alter, destroy, or otherwise dispose of the public
659 record sought to be inspected and examined, notwithstanding the
660 applicability of an exemption or the assertion that the
661 requested record is not a public record subject to inspection
662 and examination under s. 119.07(1), until the court directs
663 otherwise. The person who has custody of the ~~such~~ public record
664 may, however, at any time permit inspection of the requested
665 record as provided in s. 119.07(1) and other provisions of law.

666 Section 13. Section 119.12, Florida Statutes, is
667 transferred, renumbered as section 119.22, Florida Statutes, and
668 amended to read:

HB 1211

2010

669 119.22 ~~119.12~~ Attorney's fees.—If a civil action is filed
 670 against an agency to enforce the provisions of this chapter or
 671 any other law that relates to access to public records or public
 672 meetings, including those that restrict public access to such
 673 records or meetings, and if the court determines that the such
 674 agency violated such provision ~~unlawfully refused to permit a~~
 675 ~~public record to be inspected or copied,~~ the court shall assess
 676 and award, against the agency responsible, the reasonable costs
 677 of enforcement including reasonable attorney's ~~attorneys'~~ fees
 678 at trial and on appeal.

679 Section 14. Paragraph (c) of subsection (5) of section
 680 20.052, Florida Statutes, is amended to read:

681 20.052 Advisory bodies, commissions, boards;
 682 establishment.—Each advisory body, commission, board of
 683 trustees, or any other collegial body created by specific
 684 statutory enactment as an adjunct to an executive agency must be
 685 established, evaluated, or maintained in accordance with the
 686 following provisions:

687 (5)

688 (c) Unless an exemption is otherwise specifically provided
 689 by law, all meetings of an advisory body, commission, board of
 690 trustees, or other collegial body adjunct to an executive agency
 691 are public meetings under s. 119.13(1) ~~286.011~~. Minutes,
 692 including a record of all votes cast, must be maintained for all
 693 meetings.

694 Section 15. Paragraph (k) of subsection (6) of section
 695 20.19, Florida Statutes, is amended to read:

696 20.19 Department of Children and Family Services.—There is

HB 1211

2010

697 created a Department of Children and Family Services.

698 (6) COMMUNITY ALLIANCES.—

699 (k) All alliance meetings are open to the public pursuant
 700 to s. 119.13(1) ~~286.011~~ and the public records provision of s.
 701 119.07(1).

702 Section 16. Subsection (8) of section 20.41, Florida
 703 Statutes, is amended to read:

704 20.41 Department of Elderly Affairs.—There is created a
 705 Department of Elderly Affairs.

706 (8) Area agencies on aging are subject to chapter 119,
 707 relating to public records, and, when considering any contracts
 708 requiring the expenditure of funds, are subject to ss. 119.13-
 709 119.32 ~~286.011-286.012~~, relating to public meetings.

710 Section 17. Subsection (6) of section 90.502, Florida
 711 Statutes, is amended to read:

712 90.502 Lawyer-client privilege.—

713 (6) A discussion or activity that is not a meeting for
 714 purposes of s. 119.13(1) ~~286.011~~ shall not be construed to waive
 715 the attorney-client privilege established in this section. This
 716 shall not be construed to constitute an exemption to either s.
 717 119.07 or s. 286.011.

718 Section 18. Subsection (7) of section 106.25, Florida
 719 Statutes, is amended to read:

720 106.25 Reports of alleged violations to Florida Elections
 721 Commission; disposition of findings.—

722 (7) Every sworn complaint filed pursuant to this chapter
 723 with the commission, every investigation and investigative
 724 report or other paper of the commission with respect to a

HB 1211

2010

725 violation of this chapter or chapter 104, and every proceeding
726 of the commission with respect to a violation of this chapter or
727 chapter 104 is confidential, is exempt from the provisions of
728 ss. 119.07(1) and 119.13(1) ~~286.011~~, and is exempt from
729 publication in the Florida Administrative Weekly of any notice
730 or agenda with respect to any proceeding relating to such
731 violation, except under the following circumstances:

- 732 (a) As provided in subsection (6);
- 733 (b) Upon a determination of probable cause or no probable
734 cause by the commission; or
- 735 (c) For proceedings conducted with respect to appeals of
736 fines levied by filing officers for the late filing of reports
737 required by this chapter.

738

739 However, a complainant is not bound by the confidentiality
740 provisions of this section. In addition, confidentiality may be
741 waived in writing by the person against whom the complaint has
742 been filed or the investigation has been initiated. If a finding
743 of probable cause in a case is entered within 30 days prior to
744 the date of the election with respect to which the alleged
745 violation occurred, such finding and the proceedings and records
746 relating to such case shall not become public until noon of the
747 day following such election. When two or more persons are being
748 investigated by the commission with respect to an alleged
749 violation of this chapter or chapter 104, the commission may not
750 publicly enter a finding of probable cause or no probable cause
751 in the case until a finding of probable cause or no probable
752 cause for the entire case has been determined. However, once the

HB 1211

2010

753 confidentiality of any case has been breached, the person or
 754 persons under investigation have the right to waive the
 755 confidentiality of the case, thereby opening up the proceedings
 756 and records to the public. Any person who discloses any
 757 information or matter made confidential by the provisions of
 758 this subsection commits a misdemeanor of the first degree,
 759 punishable as provided in s. 775.082 or s. 775.083.

760 Section 19. Subsection (4) of section 110.201, Florida
 761 Statutes, is amended to read:

762 110.201 Personnel rules, records, and reports.—

763 (4) The department shall coordinate with the Governor and
 764 consult with the Administration Commission on personnel matters
 765 falling within the scope of collective bargaining and shall
 766 represent the Governor in collective bargaining negotiations and
 767 other collective bargaining matters as may be necessary. All
 768 discussions between the department and the Governor, and between
 769 the department and the Administration Commission or agency
 770 heads, or between any of their respective representatives,
 771 relative to collective bargaining, shall be exempt from the
 772 provisions of s. 119.13(1) ~~286.011~~, and all work products
 773 relative to collective bargaining developed in conjunction with
 774 such discussions shall be confidential and exempt from the
 775 provisions of s. 119.07(1).

776 Section 20. Paragraphs (b) and (d) of subsection (8) of
 777 section 112.3215, Florida Statutes, are amended to read:

778 112.3215 Lobbying before the executive branch or the
 779 Constitution Revision Commission; registration and reporting;
 780 investigation by commission.—

HB 1211

2010

781 (8)

782 (b) All proceedings, the complaint, and other records
783 relating to the investigation are confidential and exempt from
784 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
785 Constitution, and any meetings held pursuant to an investigation
786 are exempt from the provisions of s. 119.13(1) ~~286.011(1)~~ and s.
787 24(b), Art. I of the State Constitution either until the alleged
788 violator requests in writing that such investigation and
789 associated records and meetings be made public or until the
790 commission determines, based on the investigation, whether
791 probable cause exists to believe that a violation has occurred.

792 (d) Records relating to an audit conducted pursuant to
793 this section or an investigation conducted pursuant to this
794 section or s. 112.32155 are confidential and exempt from s.
795 119.07(1) and s. 24(a), Art. I of the State Constitution, and
796 any meetings held pursuant to such an investigation or at which
797 such an audit is discussed are exempt from s. 119.13(1) ~~286.011~~
798 and s. 24(b), Art. I of the State Constitution either until the
799 lobbying firm requests in writing that such investigation and
800 associated records and meetings be made public or until the
801 commission determines there is probable cause that the audit
802 reflects a violation of the reporting laws. This paragraph is
803 subject to the Open Government Sunset Review Act in accordance
804 with s. 119.15 and shall stand repealed on October 2, 2011,
805 unless reviewed and saved from repeal through reenactment by the
806 Legislature.

807 Section 21. Paragraph (a) of subsection (2) of section
808 112.324, Florida Statutes, is amended to read:

HB 1211

2010

809 112.324 Procedures on complaints of violations; public
 810 records and meeting exemptions.—

811 (2) (a) The complaint and records relating to the complaint
 812 or to any preliminary investigation held by the commission or
 813 its agents or by a Commission on Ethics and Public Trust
 814 established by any county defined in s. 125.011(1) or by any
 815 municipality defined in s. 165.031 are confidential and exempt
 816 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
 817 State Constitution, and any proceeding conducted by the
 818 commission or a Commission on Ethics and Public Trust, pursuant
 819 to a complaint or preliminary investigation, is exempt from the
 820 provisions of s. 119.13(1) ~~286.011~~, s. 24(b), Art. I of the
 821 State Constitution, and s. 120.525, until the complaint is
 822 dismissed as legally insufficient, until the alleged violator
 823 requests in writing that such records and proceedings be made
 824 public, or until the commission or a Commission on Ethics and
 825 Public Trust determines, based on such investigation, whether
 826 probable cause exists to believe that a violation has occurred.
 827 In no event shall a complaint under this part against a
 828 candidate in any general, special, or primary election be filed
 829 or any intention of filing such a complaint be disclosed on the
 830 day of any such election or within the 5 days immediately
 831 preceding the date of the election.

832 Section 22. Subsection (8) of section 119.011, Florida
 833 Statutes, is amended to read:

834 119.011 Definitions.—As used in this chapter, the term:

835 (8) "Exemption" means a provision of general law which
 836 provides that a specified record or meeting, or portion thereof,

HB 1211

2010

837 is not subject to the access requirements of s. 119.07(1), s.
 838 119.13(1) ~~286.011~~, or s. 24, Art. I of the State Constitution.

839 Section 23. Subsection (7) of section 119.07, Florida
 840 Statutes, is amended to read:

841 119.07 Inspection and copying of records; photographing
 842 public records; fees; exemptions.—

843 (7) An exemption from this section does not imply an
 844 exemption from s. 119.13(1) ~~286.011~~. The exemption from s.
 845 119.13(1) ~~286.011~~ must be expressly provided.

846 Section 24. Paragraph (b) of subsection (5) of section
 847 120.54, Florida Statutes, is amended to read:

848 120.54 Rulemaking.—

849 (5) UNIFORM RULES.—

850 (b) The uniform rules of procedure adopted by the
 851 commission pursuant to this subsection shall include, but are
 852 not limited to:

853 1. Uniform rules for the scheduling of public meetings,
 854 hearings, and workshops.

855 2. Uniform rules for use by each state agency that provide
 856 procedures for conducting public meetings, hearings, and
 857 workshops, and for taking evidence, testimony, and argument at
 858 such public meetings, hearings, and workshops, in person and by
 859 means of communications media technology. The rules shall
 860 provide that all evidence, testimony, and argument presented
 861 shall be afforded equal consideration, regardless of the method
 862 of communication. If a public meeting, hearing, or workshop is
 863 to be conducted by means of communications media technology, or
 864 if attendance may be provided by such means, the notice shall so

HB 1211

2010

865 state. The notice for public meetings, hearings, and workshops
866 utilizing communications media technology shall state how
867 persons interested in attending may do so and shall name
868 locations, if any, where communications media technology
869 facilities will be available. Nothing in this paragraph shall be
870 construed to diminish the right to inspect public records under
871 chapter 119. Limiting points of access to public meetings,
872 hearings, and workshops subject to the provisions of s.
873 119.13(1) ~~286.011~~ to places not normally open to the public
874 shall be presumed to violate the right of access of the public,
875 and any official action taken under such circumstances is void
876 and of no effect. Other laws relating to public meetings,
877 hearings, and workshops, including penal and remedial
878 provisions, shall apply to public meetings, hearings, and
879 workshops conducted by means of communications media technology,
880 and shall be liberally construed in their application to such
881 public meetings, hearings, and workshops. As used in this
882 subparagraph, "communications media technology" means the
883 electronic transmission of printed matter, audio, full-motion
884 video, freeze-frame video, compressed video, and digital video
885 by any method available.

886 3. Uniform rules of procedure for the filing of notice of
887 protests and formal written protests. The Administration
888 Commission may prescribe the form and substantive provisions of
889 a required bond.

890 4. Uniform rules of procedure for the filing of petitions
891 for administrative hearings pursuant to s. 120.569 or s. 120.57.
892 Such rules shall require the petition to include:

- 893 | a. The identification of the petitioner.
- 894 | b. A statement of when and how the petitioner received
- 895 | notice of the agency's action or proposed action.
- 896 | c. An explanation of how the petitioner's substantial
- 897 | interests are or will be affected by the action or proposed
- 898 | action.
- 899 | d. A statement of all material facts disputed by the
- 900 | petitioner or a statement that there are no disputed facts.
- 901 | e. A statement of the ultimate facts alleged, including a
- 902 | statement of the specific facts the petitioner contends warrant
- 903 | reversal or modification of the agency's proposed action.
- 904 | f. A statement of the specific rules or statutes that the
- 905 | petitioner contends require reversal or modification of the
- 906 | agency's proposed action, including an explanation of how the
- 907 | alleged facts relate to the specific rules or statutes.
- 908 | g. A statement of the relief sought by the petitioner,
- 909 | stating precisely the action petitioner wishes the agency to
- 910 | take with respect to the proposed action.
- 911 | 5. Uniform rules for the filing of request for
- 912 | administrative hearing by a respondent in agency enforcement and
- 913 | disciplinary actions. Such rules shall require a request to
- 914 | include:
- 915 | a. The name, address, and telephone number of the party
- 916 | making the request and the name, address, and telephone number
- 917 | of the party's counsel or qualified representative upon whom
- 918 | service of pleadings and other papers shall be made;
- 919 | b. A statement that the respondent is requesting an
- 920 | administrative hearing and disputes the material facts alleged

921 by the petitioner, in which case the respondent shall identify
 922 those material facts that are in dispute, or that the respondent
 923 is requesting an administrative hearing and does not dispute the
 924 material facts alleged by the petitioner; and

925 c. A reference by file number to the administrative
 926 complaint that the party has received from the agency and the
 927 date on which the agency pleading was received.

928
 929 The agency may provide an election-of-rights form for the
 930 respondent's use in requesting a hearing, so long as any form
 931 provided by the agency calls for the information in sub-
 932 subparagraphs a. through c. and does not impose any additional
 933 requirements on a respondent in order to request a hearing,
 934 unless such requirements are specifically authorized by law.

935 6. Uniform rules of procedure for the filing and prompt
 936 disposition of petitions for declaratory statements. The rules
 937 shall also describe the contents of the notices that must be
 938 published in the Florida Administrative Weekly under s. 120.565,
 939 including any applicable time limit for the filing of petitions
 940 to intervene or petitions for administrative hearing by persons
 941 whose substantial interests may be affected.

942 7. Provision of a method by which each agency head shall
 943 provide a description of the agency's organization and general
 944 course of its operations. The rules shall require that the
 945 statement concerning the agency's organization and operations be
 946 published on the agency's website.

947 8. Uniform rules establishing procedures for granting or
 948 denying petitions for variances and waivers pursuant to s.

HB 1211

2010

949 120.542.

950 Section 25. Subsection (2) of section 125.355, Florida
951 Statutes, is amended to read:

952 125.355 Proposed purchase of real property by county;
953 confidentiality of records; procedure.—

954 (2) Nothing in this section shall be interpreted as
955 providing an exemption from, or an exception to, s. 119.13(1)
956 ~~286.011~~.

957 Section 26. Subsection (7) of section 154.207, Florida
958 Statutes, is amended to read:

959 154.207 Creation of health facilities authorities.—

960 (7) Three members of the authority shall constitute a
961 quorum, and the affirmative vote of a majority of the members
962 present at a meeting of the authority shall be necessary for any
963 action taken by an authority. However, any action may be taken
964 by the authority with the unanimous consent of all of its
965 members. No vacancy in the membership of the authority shall
966 impair the right of a quorum to exercise all the rights and
967 perform all the duties of the authority. Any action taken by the
968 authority under the provisions of this part may be authorized by
969 resolution at any regular or special meeting, and each such
970 resolution shall take effect immediately and need not be
971 published or posted. All meetings of the authority, as well as
972 all records, books, documents, and papers, shall be open and
973 available to the public in accordance with s. 119.13(1) ~~286.011~~.

974 Section 27. Subsection (2) of section 166.045, Florida
975 Statutes, is amended to read:

976 166.045 Proposed purchase of real property by

HB 1211

2010

977 municipality; confidentiality of records; procedure.—

978 (2) Nothing in this section shall be interpreted as
 979 providing an exemption from, or an exception to, s. 119.13(1)
 980 ~~286.011~~.

981 Section 28. Paragraph (a) of subsection (4) and paragraph
 982 (e) of subsection (5) of section 212.055, Florida Statutes, are
 983 amended to read:

984 212.055 Discretionary sales surtaxes; legislative intent;
 985 authorization and use of proceeds.—It is the legislative intent
 986 that any authorization for imposition of a discretionary sales
 987 surtax shall be published in the Florida Statutes as a
 988 subsection of this section, irrespective of the duration of the
 989 levy. Each enactment shall specify the types of counties
 990 authorized to levy; the rate or rates which may be imposed; the
 991 maximum length of time the surtax may be imposed, if any; the
 992 procedure which must be followed to secure voter approval, if
 993 required; the purpose for which the proceeds may be expended;
 994 and such other requirements as the Legislature may provide.
 995 Taxable transactions and administrative procedures shall be as
 996 provided in s. 212.054.

997 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

998 (a)1. The governing body in each county the government of
 999 which is not consolidated with that of one or more
 1000 municipalities, which has a population of at least 800,000
 1001 residents and is not authorized to levy a surtax under
 1002 subsection (5), may levy, pursuant to an ordinance either
 1003 approved by an extraordinary vote of the governing body or
 1004 conditioned to take effect only upon approval by a majority vote

HB 1211

2010

1005 of the electors of the county voting in a referendum, a
 1006 discretionary sales surtax at a rate that may not exceed 0.5
 1007 percent.

1008 2. If the ordinance is conditioned on a referendum, a
 1009 statement that includes a brief and general description of the
 1010 purposes to be funded by the surtax and that conforms to the
 1011 requirements of s. 101.161 shall be placed on the ballot by the
 1012 governing body of the county. The following questions shall be
 1013 placed on the ballot:

1014 FOR THE. . . .CENTS TAX

1015 AGAINST THE. . . .CENTS TAX

1016
 1017 3. The ordinance adopted by the governing body providing
 1018 for the imposition of the surtax shall set forth a plan for
 1019 providing health care services to qualified residents, as
 1020 defined in subparagraph 4. Such plan and subsequent amendments
 1021 to it shall fund a broad range of health care services for both
 1022 indigent persons and the medically poor, including, but not
 1023 limited to, primary care and preventive care as well as hospital
 1024 care. The plan must also address the services to be provided by
 1025 the Level I trauma center. It shall emphasize a continuity of
 1026 care in the most cost-effective setting, taking into
 1027 consideration both a high quality of care and geographic access.
 1028 Where consistent with these objectives, it shall include,
 1029 without limitation, services rendered by physicians, clinics,
 1030 community hospitals, mental health centers, and alternative
 1031 delivery sites, as well as at least one regional referral
 1032 hospital where appropriate. It shall provide that agreements

HB 1211

2010

1033 negotiated between the county and providers, including hospitals
 1034 with a Level I trauma center, will include reimbursement
 1035 methodologies that take into account the cost of services
 1036 rendered to eligible patients, recognize hospitals that render a
 1037 disproportionate share of indigent care, provide other
 1038 incentives to promote the delivery of charity care, promote the
 1039 advancement of technology in medical services, recognize the
 1040 level of responsiveness to medical needs in trauma cases, and
 1041 require cost containment including, but not limited to, case
 1042 management. It must also provide that any hospitals that are
 1043 owned and operated by government entities on May 21, 1991, must,
 1044 as a condition of receiving funds under this subsection, afford
 1045 public access equal to that provided under s. 119.13(1) ~~286.011~~
 1046 as to meetings of the governing board, the subject of which is
 1047 budgeting resources for the rendition of charity care as that
 1048 term is defined in the Florida Hospital Uniform Reporting System
 1049 (FHURS) manual referenced in s. 408.07. The plan shall also
 1050 include innovative health care programs that provide cost-
 1051 effective alternatives to traditional methods of service
 1052 delivery and funding.

1053 4. For the purpose of this paragraph, the term "qualified
 1054 resident" means residents of the authorizing county who are:

1055 a. Qualified as indigent persons as certified by the
 1056 authorizing county;

1057 b. Certified by the authorizing county as meeting the
 1058 definition of the medically poor, defined as persons having
 1059 insufficient income, resources, and assets to provide the needed
 1060 medical care without using resources required to meet basic

HB 1211

2010

1061 needs for shelter, food, clothing, and personal expenses; or not
 1062 being eligible for any other state or federal program, or having
 1063 medical needs that are not covered by any such program; or
 1064 having insufficient third-party insurance coverage. In all
 1065 cases, the authorizing county is intended to serve as the payor
 1066 of last resort; or

1067 c. Participating in innovative, cost-effective programs
 1068 approved by the authorizing county.

1069 5. Moneys collected pursuant to this paragraph remain the
 1070 property of the state and shall be distributed by the Department
 1071 of Revenue on a regular and periodic basis to the clerk of the
 1072 circuit court as ex officio custodian of the funds of the
 1073 authorizing county. The clerk of the circuit court shall:

1074 a. Maintain the moneys in an indigent health care trust
 1075 fund;

1076 b. Invest any funds held on deposit in the trust fund
 1077 pursuant to general law;

1078 c. Disburse the funds, including any interest earned, to
 1079 any provider of health care services, as provided in
 1080 subparagraphs 3. and 4., upon directive from the authorizing
 1081 county. However, if a county has a population of at least
 1082 800,000 residents and has levied the surtax authorized in this
 1083 paragraph, notwithstanding any directive from the authorizing
 1084 county, on October 1 of each calendar year, the clerk of the
 1085 court shall issue a check in the amount of \$6.5 million to a
 1086 hospital in its jurisdiction that has a Level I trauma center or
 1087 shall issue a check in the amount of \$3.5 million to a hospital
 1088 in its jurisdiction that has a Level I trauma center if that

HB 1211

2010

1089 county enacts and implements a hospital lien law in accordance
 1090 with chapter 98-499, Laws of Florida. The issuance of the checks
 1091 on October 1 of each year is provided in recognition of the
 1092 Level I trauma center status and shall be in addition to the
 1093 base contract amount received during fiscal year 1999-2000 and
 1094 any additional amount negotiated to the base contract. If the
 1095 hospital receiving funds for its Level I trauma center status
 1096 requests such funds to be used to generate federal matching
 1097 funds under Medicaid, the clerk of the court shall instead issue
 1098 a check to the Agency for Health Care Administration to
 1099 accomplish that purpose to the extent that it is allowed through
 1100 the General Appropriations Act; and

1101 d. Prepare on a biennial basis an audit of the trust fund
 1102 specified in sub-subparagraph a. Commencing February 1, 2004,
 1103 such audit shall be delivered to the governing body and to the
 1104 chair of the legislative delegation of each authorizing county.

1105 6. Notwithstanding any other provision of this section, a
 1106 county shall not levy local option sales surtaxes authorized in
 1107 this paragraph and subsections (2) and (3) in excess of a
 1108 combined rate of 1 percent.

1109 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
 1110 in s. 125.011(1) may levy the surtax authorized in this
 1111 subsection pursuant to an ordinance either approved by
 1112 extraordinary vote of the county commission or conditioned to
 1113 take effect only upon approval by a majority vote of the
 1114 electors of the county voting in a referendum. In a county as
 1115 defined in s. 125.011(1), for the purposes of this subsection,
 1116 "county public general hospital" means a general hospital as

HB 1211

2010

1117 defined in s. 395.002 which is owned, operated, maintained, or
 1118 governed by the county or its agency, authority, or public
 1119 health trust.

1120 (e) A governing board, agency, or authority shall be
 1121 chartered by the county commission upon this act becoming law.
 1122 The governing board, agency, or authority shall adopt and
 1123 implement a health care plan for indigent health care services.
 1124 The governing board, agency, or authority shall consist of no
 1125 more than seven and no fewer than five members appointed by the
 1126 county commission. The members of the governing board, agency,
 1127 or authority shall be at least 18 years of age and residents of
 1128 the county. No member may be employed by or affiliated with a
 1129 health care provider or the public health trust, agency, or
 1130 authority responsible for the county public general hospital.
 1131 The following community organizations shall each appoint a
 1132 representative to a nominating committee: the South Florida
 1133 Hospital and Healthcare Association, the Miami-Dade County
 1134 Public Health Trust, the Dade County Medical Association, the
 1135 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 1136 County. This committee shall nominate between 10 and 14 county
 1137 citizens for the governing board, agency, or authority. The
 1138 slate shall be presented to the county commission and the county
 1139 commission shall confirm the top five to seven nominees,
 1140 depending on the size of the governing board. Until such time as
 1141 the governing board, agency, or authority is created, the funds
 1142 provided for in subparagraph (d)2. shall be placed in a
 1143 restricted account set aside from other county funds and not
 1144 disbursed by the county for any other purpose.

HB 1211

2010

1145 1. The plan shall divide the county into a minimum of four
1146 and maximum of six service areas, with no more than one
1147 participant hospital per service area. The county public general
1148 hospital shall be designated as the provider for one of the
1149 service areas. Services shall be provided through participants'
1150 primary acute care facilities.

1151 2. The plan and subsequent amendments to it shall fund a
1152 defined range of health care services for both indigent persons
1153 and the medically poor, including primary care, preventive care,
1154 hospital emergency room care, and hospital care necessary to
1155 stabilize the patient. For the purposes of this section,
1156 "stabilization" means stabilization as defined in s.
1157 397.311(35). Where consistent with these objectives, the plan
1158 may include services rendered by physicians, clinics, community
1159 hospitals, and alternative delivery sites, as well as at least
1160 one regional referral hospital per service area. The plan shall
1161 provide that agreements negotiated between the governing board,
1162 agency, or authority and providers shall recognize hospitals
1163 that render a disproportionate share of indigent care, provide
1164 other incentives to promote the delivery of charity care to draw
1165 down federal funds where appropriate, and require cost
1166 containment, including, but not limited to, case management.
1167 From the funds specified in subparagraphs (d)1. and 2. for
1168 indigent health care services, service providers shall receive
1169 reimbursement at a Medicaid rate to be determined by the
1170 governing board, agency, or authority created pursuant to this
1171 paragraph for the initial emergency room visit, and a per-member
1172 per-month fee or capitation for those members enrolled in their

HB 1211

2010

1173 service area, as compensation for the services rendered
 1174 following the initial emergency visit. Except for provisions of
 1175 emergency services, upon determination of eligibility,
 1176 enrollment shall be deemed to have occurred at the time services
 1177 were rendered. The provisions for specific reimbursement of
 1178 emergency services shall be repealed on July 1, 2001, unless
 1179 otherwise reenacted by the Legislature. The capitation amount or
 1180 rate shall be determined prior to program implementation by an
 1181 independent actuarial consultant. In no event shall such
 1182 reimbursement rates exceed the Medicaid rate. The plan must also
 1183 provide that any hospitals owned and operated by government
 1184 entities on or after the effective date of this act must, as a
 1185 condition of receiving funds under this subsection, afford
 1186 public access equal to that provided under s. 119.13(1) ~~286.011~~
 1187 as to any meeting of the governing board, agency, or authority
 1188 the subject of which is budgeting resources for the retention of
 1189 charity care, as that term is defined in the rules of the Agency
 1190 for Health Care Administration. The plan shall also include
 1191 innovative health care programs that provide cost-effective
 1192 alternatives to traditional methods of service and delivery
 1193 funding.

1194 3. The plan's benefits shall be made available to all
 1195 county residents currently eligible to receive health care
 1196 services as indigents or medically poor as defined in paragraph
 1197 (4) (d).

1198 4. Eligible residents who participate in the health care
 1199 plan shall receive coverage for a period of 12 months or the
 1200 period extending from the time of enrollment to the end of the

HB 1211

2010

1201 current fiscal year, per enrollment period, whichever is less.

1202 5. At the end of each fiscal year, the governing board,
 1203 agency, or authority shall prepare an audit that reviews the
 1204 budget of the plan, delivery of services, and quality of
 1205 services, and makes recommendations to increase the plan's
 1206 efficiency. The audit shall take into account participant
 1207 hospital satisfaction with the plan and assess the amount of
 1208 poststabilization patient transfers requested, and accepted or
 1209 denied, by the county public general hospital.

1210 Section 29. Subsection (7) of section 213.732, Florida
 1211 Statutes, is amended to read:

1212 213.732 Jeopardy findings and assessments.—

1213 (7) If the department proceeds to seize or freeze the
 1214 assets of a taxpayer upon a determination of jeopardy, the
 1215 taxpayer shall have a right to a meeting with the department, as
 1216 provided by subsection (3), immediately or within 24 hours after
 1217 requesting such meeting. The department shall, within 24 hours
 1218 after such meeting, determine whether to release the seizure or
 1219 freeze. If the department does not release such seizure or
 1220 freeze of property, the taxpayer shall have a right to request a
 1221 hearing within 5 days before the circuit court, at which hearing
 1222 the taxpayer and the department may present evidence with
 1223 respect to the issue of jeopardy. Venue in such an action shall
 1224 lie in the county in which the seizure was effected or, if there
 1225 are multiple seizures based upon the same assessment, venue
 1226 shall also lie in Leon County. Whenever an action is filed to
 1227 seek review of a jeopardy finding under this subsection, the
 1228 court shall set an immediate hearing and shall give the case

HB 1211

2010

1229 priority over other pending cases other than those filed
 1230 pursuant to s. 119.21 ~~s. 119.11~~.

1231 Section 30. Subsection (2) of section 215.442, Florida
 1232 Statutes, is amended to read:

1233 215.442 Executive director; reporting requirements; public
 1234 meeting.—

1235 (2) The executive director shall present each quarterly
 1236 report at a meeting of the board of trustees, which shall be
 1237 open and noticed to the public pursuant to the requirements of
 1238 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 1239 Constitution.

1240 Section 31. Subsection (7) of section 215.5602, Florida
 1241 Statutes, is amended to read:

1242 215.5602 James and Esther King Biomedical Research
 1243 Program.—

1244 (7) The council and the peer review panel shall establish
 1245 and follow rigorous guidelines for ethical conduct and adhere to
 1246 a strict policy with regard to conflict of interest. A member of
 1247 the council or panel may not participate in any discussion or
 1248 decision with respect to a research proposal by any firm,
 1249 entity, or agency with which the member is associated as a
 1250 member of the governing body or as an employee, or with which
 1251 the member has entered into a contractual arrangement. Meetings
 1252 of the council and the peer review panels shall be subject to
 1253 the provisions of chapter 119, s. 119.13(1) ~~286.011~~, and s. 24,
 1254 Art. I of the State Constitution.

1255 Section 32. Paragraph (c) of subsection (1) of section
 1256 255.20, Florida Statutes, is amended to read:

HB 1211

2010

1257 255.20 Local bids and contracts for public construction
 1258 works; specification of state-produced lumber.—
 1259 (1) A county, municipality, special district as defined in
 1260 chapter 189, or other political subdivision of the state seeking
 1261 to construct or improve a public building, structure, or other
 1262 public construction works must competitively award to an
 1263 appropriately licensed contractor each project that is estimated
 1264 in accordance with generally accepted cost-accounting principles
 1265 to cost more than \$300,000. For electrical work, the local
 1266 government must competitively award to an appropriately licensed
 1267 contractor each project that is estimated in accordance with
 1268 generally accepted cost-accounting principles to cost more than
 1269 \$75,000. As used in this section, the term "competitively award"
 1270 means to award contracts based on the submission of sealed bids,
 1271 proposals submitted in response to a request for proposal,
 1272 proposals submitted in response to a request for qualifications,
 1273 or proposals submitted for competitive negotiation. This
 1274 subsection expressly allows contracts for construction
 1275 management services, design/build contracts, continuation
 1276 contracts based on unit prices, and any other contract
 1277 arrangement with a private sector contractor permitted by any
 1278 applicable municipal or county ordinance, by district
 1279 resolution, or by state law. For purposes of this section, cost
 1280 includes the cost of all labor, except inmate labor, and the
 1281 cost of equipment and materials to be used in the construction
 1282 of the project. Subject to the provisions of subsection (3), the
 1283 county, municipality, special district, or other political
 1284 subdivision may establish, by municipal or county ordinance or

HB 1211

2010

1285 special district resolution, procedures for conducting the
1286 bidding process.

1287 (c) The provisions of this subsection do not apply:

1288 1. If the project is undertaken to replace, reconstruct,
1289 or repair an existing public building, structure, or other
1290 public construction works damaged or destroyed by a sudden
1291 unexpected turn of events such as an act of God, riot, fire,
1292 flood, accident, or other urgent circumstances, and such damage
1293 or destruction creates:

1294 a. An immediate danger to the public health or safety;

1295 b. Other loss to public or private property which requires
1296 emergency government action; or

1297 c. An interruption of an essential governmental service.

1298 2. If, after notice by publication in accordance with the
1299 applicable ordinance or resolution, the governmental entity does
1300 not receive any responsive bids or proposals.

1301 3. To construction, remodeling, repair, or improvement to
1302 a public electric or gas utility system if such work on the
1303 public utility system is performed by personnel of the system.

1304 4. To construction, remodeling, repair, or improvement by
1305 a utility commission whose major contracts are to construct and
1306 operate a public electric utility system.

1307 5. If the project is undertaken as repair or maintenance
1308 of an existing public facility. For the purposes of this
1309 paragraph, the term "repair" means a corrective action to
1310 restore an existing public facility to a safe and functional
1311 condition and the term "maintenance" means a preventive or
1312 corrective action to maintain an existing public facility in an

HB 1211

2010

1313 operational state or to preserve the facility from failure or
1314 decline. Repair or maintenance includes activities that are
1315 necessarily incidental to repairing or maintaining the facility.
1316 Repair or maintenance does not include the construction of any
1317 new building, structure, or other public construction works or
1318 any substantial addition, extension, or upgrade to an existing
1319 public facility. Such additions, extensions, or upgrades shall
1320 be considered substantial if the estimated cost of the
1321 additions, extensions, or upgrades included as part of the
1322 repair or maintenance project exceeds the threshold amount in
1323 subsection (1) and exceeds 20 percent of the estimated total
1324 cost of the repair or maintenance project using generally
1325 accepted cost-accounting principles that fully account for all
1326 costs associated with performing and completing the work,
1327 including employee compensation and benefits, equipment cost and
1328 maintenance, insurance costs, and materials. An addition,
1329 extension, or upgrade shall not be considered substantial if it
1330 is undertaken pursuant to the conditions specified in
1331 subparagraph 1. Repair and maintenance projects and any related
1332 additions, extensions, or upgrades may not be divided into
1333 multiple projects for the purpose of evading the requirements of
1334 this subparagraph.

1335 6. If the project is undertaken exclusively as part of a
1336 public educational program.

1337 7. If the funding source of the project will be diminished
1338 or lost because the time required to competitively award the
1339 project after the funds become available exceeds the time within
1340 which the funding source must be spent.

HB 1211

2010

1341 8. If the local government competitively awarded a project
 1342 to a private sector contractor and the contractor abandoned the
 1343 project before completion or the local government terminated the
 1344 contract.

1345 9. If the governing board of the local government complies
 1346 with all of the requirements of this subparagraph, conducts a
 1347 public meeting under s. 119.13(1) ~~286.011~~ after public notice,
 1348 and finds by majority vote of the governing board that it is in
 1349 the public's best interest to perform the project using its own
 1350 services, employees, and equipment. The public notice must be
 1351 published at least 21 days before the date of the public meeting
 1352 at which the governing board takes final action. The notice must
 1353 identify the project, the components and scope of the work, and
 1354 the estimated cost of the project using generally accepted cost-
 1355 accounting principles that fully account for all costs
 1356 associated with performing and completing the work, including
 1357 employee compensation and benefits, equipment cost and
 1358 maintenance, insurance costs, and materials. The notice must
 1359 specify that the purpose for the public meeting is to consider
 1360 whether it is in the public's best interest to perform the
 1361 project using the local government's own services, employees,
 1362 and equipment. Upon publication of the public notice and for 21
 1363 days thereafter, the local government shall make available for
 1364 public inspection, during normal business hours and at a
 1365 location specified in the public notice, a detailed itemization
 1366 of each component of the estimated cost of the project and
 1367 documentation explaining the methodology used to arrive at the
 1368 estimated cost. At the public meeting, any qualified contractor

HB 1211

2010

1369 or vendor who could have been awarded the project had the
1370 project been competitively bid shall be provided with a
1371 reasonable opportunity to present evidence to the governing
1372 board regarding the project and the accuracy of the local
1373 government's estimated cost of the project. In deciding whether
1374 it is in the public's best interest for the local government to
1375 perform a project using its own services, employees, and
1376 equipment, the governing board must consider the estimated cost
1377 of the project and the accuracy of the estimated cost in light
1378 of any other information that may be presented at the public
1379 meeting and whether the project requires an increase in the
1380 number of government employees or an increase in capital
1381 expenditures for public facilities, equipment, or other capital
1382 assets. The local government may further consider the impact on
1383 local economic development, the impact on small and minority
1384 business owners, the impact on state and local tax revenues,
1385 whether the private sector contractors provide health insurance
1386 and other benefits equivalent to those provided by the local
1387 government, and any other factor relevant to what is in the
1388 public's best interest.

1389 10. If the governing board of the local government
1390 determines upon consideration of specific substantive criteria
1391 that it is in the best interest of the local government to award
1392 the project to an appropriately licensed private sector
1393 contractor pursuant to administrative procedures established by
1394 and expressly set forth in a charter, ordinance, or resolution
1395 of the local government adopted before July 1, 1994. The
1396 criteria and procedures must be set out in the charter,

HB 1211

2010

1397 ordinance, or resolution and must be applied uniformly by the
 1398 local government to avoid awarding a project in an arbitrary or
 1399 capricious manner. This exception applies only if all of the
 1400 following occur:

1401 a. The governing board of the local government, after
 1402 public notice, conducts a public meeting under s. 119.13(1)
 1403 ~~286.011~~ and finds by a two-thirds vote of the governing board
 1404 that it is in the public's best interest to award the project
 1405 according to the criteria and procedures established by charter,
 1406 ordinance, or resolution. The public notice must be published at
 1407 least 14 days before the date of the public meeting at which the
 1408 governing board takes final action. The notice must identify the
 1409 project, the estimated cost of the project, and specify that the
 1410 purpose for the public meeting is to consider whether it is in
 1411 the public's best interest to award the project using the
 1412 criteria and procedures permitted by the preexisting charter,
 1413 ordinance, or resolution.

1414 b. The project is to be awarded by any method other than a
 1415 competitive selection process, and the governing board finds
 1416 evidence that:

1417 (I) There is one appropriately licensed contractor who is
 1418 uniquely qualified to undertake the project because that
 1419 contractor is currently under contract to perform work that is
 1420 affiliated with the project; or

1421 (II) The time to competitively award the project will
 1422 jeopardize the funding for the project, materially increase the
 1423 cost of the project, or create an undue hardship on the public
 1424 health, safety, or welfare.

HB 1211

2010

1425 c. The project is to be awarded by any method other than a
 1426 competitive selection process, and the published notice clearly
 1427 specifies the ordinance or resolution by which the private
 1428 sector contractor will be selected and the criteria to be
 1429 considered.

1430 d. The project is to be awarded by a method other than a
 1431 competitive selection process, and the architect or engineer of
 1432 record has provided a written recommendation that the project be
 1433 awarded to the private sector contractor without competitive
 1434 selection, and the consideration by, and the justification of,
 1435 the government body are documented, in writing, in the project
 1436 file and are presented to the governing board prior to the
 1437 approval required in this paragraph.

1438 11. To projects subject to chapter 336.

1439 Section 33. Paragraph (c) of subsection (4) of section
 1440 259.1053, Florida Statutes, is amended to read:

1441 259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.;
 1442 creation; membership; organization; meetings.—

1443 (4) CREATION OF BABCOCK RANCH, INC.—

1444 (c) Meetings and records of the corporation, its
 1445 directors, advisory committees, or similar groups created by the
 1446 corporation, including any not-for-profit subsidiaries, are
 1447 subject to the public records provisions of chapter 119 and the
 1448 public meetings and records provisions of s. 119.13(1) ~~286.011~~.

1449 Section 34. Section 281.301, Florida Statutes, is amended
 1450 to read:

1451 281.301 Security systems; records and meetings exempt from
 1452 public access or disclosure.—Information relating to the

HB 1211

2010

1453 security systems for any property owned by or leased to the
 1454 state or any of its political subdivisions, and information
 1455 relating to the security systems for any privately owned or
 1456 leased property which is in the possession of any agency as
 1457 defined in s. 119.011(2), including all records, information,
 1458 photographs, audio and visual presentations, schematic diagrams,
 1459 surveys, recommendations, or consultations or portions thereof
 1460 relating directly to or revealing such systems or information,
 1461 and all meetings relating directly to or that would reveal such
 1462 systems or information are confidential and exempt from ss.
 1463 119.07(1) and 119.13(1) ~~286.011~~ and other laws and rules
 1464 requiring public access or disclosure.

1465 Section 35. Section 282.711, Florida Statutes, is amended
 1466 to read:

1467 282.711 Remote electronic access services.—The department
 1468 may collect fees for providing remote electronic access pursuant
 1469 to s. 119.07 (4) ~~(2)~~. The fees may be imposed on individual
 1470 transactions or as a fixed subscription for a designated period
 1471 of time. All fees collected under this section shall be
 1472 deposited in the appropriate trust fund of the program or
 1473 activity that made the remote electronic access available.

1474 Section 36. Subsection (1) of section 288.709, Florida
 1475 Statutes, is amended to read:

1476 288.709 Powers of the Florida Black Business Investment
 1477 Board, Inc.—The board shall have all the powers granted under
 1478 chapter 617 and any powers necessary or convenient to carry out
 1479 and effectuate the purposes and provisions of ss. 288.707-
 1480 288.714, including, but not limited to, the power to:

HB 1211

2010

1481 (1) Adopt bylaws for the regulation of its affairs and the
 1482 conduct of its business and adopt policies to implement the
 1483 provisions of law conferring duties upon it. The bylaws shall
 1484 provide that the board is subject to the requirements of s. 24,
 1485 Art. I of the State Constitution and chapter 119 and s.
 1486 119.13(1) ~~286.011~~.

1487 Section 37. Paragraph (c) of subsection (1) of section
 1488 288.955, Florida Statutes, is amended to read:

1489 288.955 Scripps Florida Funding Corporation.—

1490 (1) DEFINITIONS.—As used in this section, the term:

1491 (c) "Grantee" means The Scripps Research Institute, a not-
 1492 for-profit public benefit corporation, or a division,
 1493 subsidiary, affiliate, or entity formed by The Scripps Research
 1494 Institute to establish a state-of-the-art biomedical research
 1495 institution and campus in this state. The grantee is neither an
 1496 agency nor an entity acting on behalf of an agency for purposes
 1497 of chapter 119 and s. 119.13(1) ~~286.011~~.

1498 Section 38. Paragraph (a) of subsection (3) of section
 1499 288.9551, Florida Statutes, is amended to read:

1500 288.9551 Exemptions from public records and meetings
 1501 requirements; Scripps Florida Funding Corporation.—

1502 (3)(a) That portion of a meeting of the board of directors
 1503 of the Scripps Florida Funding Corporation at which information
 1504 is presented or discussed that is confidential and exempt under
 1505 subsection (2) is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b),
 1506 Art. I of the State Constitution.

1507 Section 39. Paragraph (c) of subsection (2) of section
 1508 288.9625, Florida Statutes, is amended to read:

HB 1211

2010

1509 288.9625 Institute for the Commercialization of Public
 1510 Research.—There is established the Institute for the
 1511 Commercialization of Public Research.

1512 (2) The purpose of the institute is to assist in the
 1513 commercialization of products developed by the research and
 1514 development activities of universities and colleges, research
 1515 institutes, and publicly supported organizations within the
 1516 state. The institute shall operate to fulfill its purpose and in
 1517 the best interests of the state. The institute:

1518 (c) Is subject to the open records and meetings
 1519 requirements of s. 24, Art. I of the State Constitution, chapter
 1520 119, and s. 119.13(1) ~~286.011~~;

1521 Section 40. Paragraph (a) of subsection (3) of section
 1522 288.9626, Florida Statutes, is amended to read:

1523 288.9626 Exemptions from public records and public
 1524 meetings requirements; Florida Opportunity Fund and the
 1525 Institute for the Commercialization of Public Research.—

1526 (3) PUBLIC MEETINGS EXEMPTION.—

1527 (a) That portion of a meeting of the board of directors of
 1528 the Florida Opportunity Fund or the board of directors of the
 1529 Institute for the Commercialization of Public Research at which
 1530 information is discussed which is confidential and exempt under
 1531 subsection (2) is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b),
 1532 Art. I of the State Constitution.

1533 Section 41. Subsection (2) of section 288.982, Florida
 1534 Statutes, is amended to read:

1535 288.982 Exemptions from public records and meeting
 1536 requirements; Governor's Advisory Council on Base Realignment

HB 1211

2010

1537 and Closure, Enterprise Florida, Inc., and the Office of
 1538 Tourism, Trade, and Economic Development; United States
 1539 Department of Defense Base Realignment and Closure 2005
 1540 process.—

1541 (2) Meetings or portions of meetings of the Governor's
 1542 Advisory Council on Base Realignment and Closure, or a committee
 1543 or subcommittee of the advisory council, at which records are
 1544 presented or discussed which are confidential and exempt under
 1545 subsection (1) are exempt from s. 119.13(1) ~~286.011~~ and s.
 1546 24(b), Art. I of the State Constitution.

1547 Section 42. Subsection (2) of section 288.985, Florida
 1548 Statutes, is amended to read:

1549 288.985 Exemptions from public records and public meetings
 1550 requirements.—

1551 (2) Meetings or portions of meetings of the Florida
 1552 Council on Military Base and Mission Support, or a workgroup of
 1553 the council, at which records are presented or discussed which
 1554 are exempt under subsection (1) are exempt from s. 119.13(1)
 1555 ~~286.011~~ and s. 24(b), Art. I of the State Constitution.

1556 Section 43. Paragraph (b) of subsection (9) of section
 1557 292.055, Florida Statutes, is amended to read:

1558 292.055 Direct-support organization.—

1559 (9) CONFIDENTIALITY OF DONORS.—

1560 (b) Portions of meetings of the direct-support
 1561 organization during which the identity of donors or prospective
 1562 donors is discussed are exempt from the provisions of s.
 1563 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 1564 Constitution.

HB 1211

2010

1565 Section 44. Paragraph (b) of subsection (3) of section
 1566 322.125, Florida Statutes, is amended to read:

1567 322.125 Medical Advisory Board.—

1568 (3)

1569 (b) Upon request of the department, the board shall report
 1570 to the department on the individual physical and mental
 1571 qualifications of a licensed driver or applicant. When a board
 1572 member acts directly as a consultant to the department, a board
 1573 member's individual review and evaluation of physical and mental
 1574 qualifications of a licensed driver or applicant is exempt from
 1575 the provisions of s. 119.13(1) ~~286.011~~.

1576 Section 45. Section 331.326, Florida Statutes, is amended
 1577 to read:

1578 331.326 Information relating to trade secrets
 1579 confidential.—The records of Space Florida regarding matters
 1580 encompassed by this act are public records subject to the
 1581 provisions of chapter 119. Any information held by Space Florida
 1582 which is a trade secret, as defined in s. 812.081, including
 1583 trade secrets of Space Florida, any spaceport user, or the space
 1584 industry business, is confidential and exempt from the
 1585 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 1586 Constitution and may not be disclosed. If Space Florida
 1587 determines that any information requested by the public will
 1588 reveal a trade secret, it shall, in writing, inform the person
 1589 making the request of that determination. The determination is a
 1590 final order as defined in s. 120.52. Any meeting or portion of a
 1591 meeting of Space Florida's board is exempt from the provisions
 1592 of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State

HB 1211

2010

1593 Constitution when the board is discussing trade secrets. Any
 1594 public record generated during the closed portions of the
 1595 meetings, such as minutes, tape recordings, and notes, is
 1596 confidential and exempt from the provisions of s. 119.07(1) and
 1597 s. 24(a), Art. I of the State Constitution.

1598 Section 46. Subsection (3) of section 339.410, Florida
 1599 Statutes, is amended to read:

1600 339.410 Notice of meetings; open records.—

1601 (3) The board of directors is subject to the provisions of
 1602 s. 119.13(1) ~~286.011~~.

1603 Section 47. Subsection (3) of section 350.031, Florida
 1604 Statutes, is amended to read:

1605 350.031 Florida Public Service Commission Nominating
 1606 Council.—

1607 (3) A majority of the membership of the council may
 1608 conduct any business before the council. All meetings and
 1609 proceedings of the council shall be staffed by the Office of
 1610 Legislative Services and shall be subject to the provisions of
 1611 ss. 119.07 and 119.13(1) ~~286.011~~. Members of the council are
 1612 entitled to receive per diem and travel expenses as provided in
 1613 s. 112.061, which shall be funded by the Florida Public Service
 1614 Regulatory Trust Fund. Applicants invited for interviews before
 1615 the council may, in the discretion of the council, receive per
 1616 diem and travel expenses as provided in s. 112.061, which shall
 1617 be funded by the Florida Public Service Regulatory Trust Fund.
 1618 The council shall establish policies and procedures to govern
 1619 the process by which applicants are nominated.

HB 1211

2010

1620 Section 48. Subsection (12) of section 365.172, Florida
 1621 Statutes, is amended to read:
 1622 365.172 Emergency communications number "E911."—
 1623 (12) FACILITATING E911 SERVICE IMPLEMENTATION.—To balance
 1624 the public need for reliable E911 services through reliable
 1625 wireless systems and the public interest served by governmental
 1626 zoning and land development regulations and notwithstanding any
 1627 other law or local ordinance to the contrary, the following
 1628 standards shall apply to a local government's actions, as a
 1629 regulatory body, in the regulation of the placement,
 1630 construction, or modification of a wireless communications
 1631 facility. This subsection shall not, however, be construed to
 1632 waive or alter the provisions of s. 119.13(1) ~~286.011~~ or s.
 1633 286.0115. For the purposes of this subsection only, "local
 1634 government" shall mean any municipality or county and any agency
 1635 of a municipality or county only. The term "local government"
 1636 does not, however, include any airport, as defined by s.
 1637 330.27(2), even if it is owned or controlled by or through a
 1638 municipality, county, or agency of a municipality or county.
 1639 Further, notwithstanding anything in this section to the
 1640 contrary, this subsection does not apply to or control a local
 1641 government's actions as a property or structure owner in the use
 1642 of any property or structure owned by such entity for the
 1643 placement, construction, or modification of wireless
 1644 communications facilities. In the use of property or structures
 1645 owned by the local government, however, a local government may
 1646 not use its regulatory authority so as to avoid compliance with,
 1647 or in a manner that does not advance, the provisions of this

HB 1211

2010

1648 subsection.

1649 (a) Collocation among wireless providers is encouraged by
1650 the state.

1651 1.a. Collocations on towers, including nonconforming
1652 towers, that meet the requirements in sub-sub-subparagraphs (I),
1653 (II), and (III), are subject to only building permit review,
1654 which may include a review for compliance with this
1655 subparagraph. Such collocations are not subject to any design or
1656 placement requirements of the local government's land
1657 development regulations in effect at the time of the collocation
1658 that are more restrictive than those in effect at the time of
1659 the initial antennae placement approval, to any other portion of
1660 the land development regulations, or to public hearing review.
1661 This sub-subparagraph shall not preclude a public hearing for
1662 any appeal of the decision on the collocation application.

1663 (I) The collocation does not increase the height of the
1664 tower to which the antennae are to be attached, measured to the
1665 highest point of any part of the tower or any existing antenna
1666 attached to the tower;

1667 (II) The collocation does not increase the ground space
1668 area, commonly known as the compound, approved in the site plan
1669 for equipment enclosures and ancillary facilities; and

1670 (III) The collocation consists of antennae, equipment
1671 enclosures, and ancillary facilities that are of a design and
1672 configuration consistent with all applicable regulations,
1673 restrictions, or conditions, if any, applied to the initial
1674 antennae placed on the tower and to its accompanying equipment
1675 enclosures and ancillary facilities and, if applicable, applied

1676 to the tower supporting the antennae. Such regulations may
 1677 include the design and aesthetic requirements, but not
 1678 procedural requirements, other than those authorized by this
 1679 section, of the local government's land development regulations
 1680 in effect at the time the initial antennae placement was
 1681 approved.

1682 b. Except for a historic building, structure, site,
 1683 object, or district, or a tower included in sub-subparagraph a.,
 1684 collocations on all other existing structures that meet the
 1685 requirements in sub-sub-subparagraphs (I)-(IV) shall be subject
 1686 to no more than building permit review, and an administrative
 1687 review for compliance with this subparagraph. Such collocations
 1688 are not subject to any portion of the local government's land
 1689 development regulations not addressed herein, or to public
 1690 hearing review. This sub-subparagraph shall not preclude a
 1691 public hearing for any appeal of the decision on the collocation
 1692 application.

1693 (I) The collocation does not increase the height of the
 1694 existing structure to which the antennae are to be attached,
 1695 measured to the highest point of any part of the structure or
 1696 any existing antenna attached to the structure;

1697 (II) The collocation does not increase the ground space
 1698 area, otherwise known as the compound, if any, approved in the
 1699 site plan for equipment enclosures and ancillary facilities;

1700 (III) The collocation consists of antennae, equipment
 1701 enclosures, and ancillary facilities that are of a design and
 1702 configuration consistent with any applicable structural or
 1703 aesthetic design requirements and any requirements for location

HB 1211

2010

1704 on the structure, but not prohibitions or restrictions on the
1705 placement of additional collocations on the existing structure
1706 or procedural requirements, other than those authorized by this
1707 section, of the local government's land development regulations
1708 in effect at the time of the collocation application; and

1709 (IV) The collocation consists of antennae, equipment
1710 enclosures, and ancillary facilities that are of a design and
1711 configuration consistent with all applicable restrictions or
1712 conditions, if any, that do not conflict with sub-sub-
1713 subparagraph (III) and were applied to the initial antennae
1714 placed on the structure and to its accompanying equipment
1715 enclosures and ancillary facilities and, if applicable, applied
1716 to the structure supporting the antennae.

1717 c. Regulations, restrictions, conditions, or permits of
1718 the local government, acting in its regulatory capacity, that
1719 limit the number of collocations or require review processes
1720 inconsistent with this subsection shall not apply to
1721 collocations addressed in this subparagraph.

1722 d. If only a portion of the collocation does not meet the
1723 requirements of this subparagraph, such as an increase in the
1724 height of the proposed antennae over the existing structure
1725 height or a proposal to expand the ground space approved in the
1726 site plan for the equipment enclosure, where all other portions
1727 of the collocation meet the requirements of this subparagraph,
1728 that portion of the collocation only may be reviewed under the
1729 local government's regulations applicable to an initial
1730 placement of that portion of the facility, including, but not
1731 limited to, its land development regulations, and within the

HB 1211

2010

1732 review timeframes of subparagraph (d)2., and the rest of the
 1733 collocation shall be reviewed in accordance with this
 1734 subparagraph. A collocation proposal under this subparagraph
 1735 that increases the ground space area, otherwise known as the
 1736 compound, approved in the original site plan for equipment
 1737 enclosures and ancillary facilities by no more than a cumulative
 1738 amount of 400 square feet or 50 percent of the original compound
 1739 size, whichever is greater, shall, however, require no more than
 1740 administrative review for compliance with the local government's
 1741 regulations, including, but not limited to, land development
 1742 regulations review, and building permit review, with no public
 1743 hearing review. This sub-subparagraph shall not preclude a
 1744 public hearing for any appeal of the decision on the collocation
 1745 application.

1746 2. If a collocation does not meet the requirements of
 1747 subparagraph 1., the local government may review the application
 1748 under the local government's regulations, including, but not
 1749 limited to, land development regulations, applicable to the
 1750 placement of initial antennae and their accompanying equipment
 1751 enclosure and ancillary facilities.

1752 3. If a collocation meets the requirements of subparagraph
 1753 1., the collocation shall not be considered a modification to an
 1754 existing structure or an impermissible modification of a
 1755 nonconforming structure.

1756 4. The owner of the existing tower on which the proposed
 1757 antennae are to be collocated shall remain responsible for
 1758 compliance with any applicable condition or requirement of a
 1759 permit or agreement, or any applicable condition or requirement

HB 1211

2010

1760 of the land development regulations to which the existing tower
 1761 had to comply at the time the tower was permitted, including any
 1762 aesthetic requirements, provided the condition or requirement is
 1763 not inconsistent with this paragraph.

1764 5. An existing tower, including a nonconforming tower, may
 1765 be structurally modified in order to permit collocation or may
 1766 be replaced through no more than administrative review and
 1767 building permit review, and is not subject to public hearing
 1768 review, if the overall height of the tower is not increased and,
 1769 if a replacement, the replacement tower is a monopole tower or,
 1770 if the existing tower is a camouflaged tower, the replacement
 1771 tower is a like-camouflaged tower. This subparagraph shall not
 1772 preclude a public hearing for any appeal of the decision on the
 1773 application.

1774 (b)1. A local government's land development and
 1775 construction regulations for wireless communications facilities
 1776 and the local government's review of an application for the
 1777 placement, construction, or modification of a wireless
 1778 communications facility shall only address land development or
 1779 zoning issues. In such local government regulations or review,
 1780 the local government may not require information on or evaluate
 1781 a wireless provider's business decisions about its service,
 1782 customer demand for its service, or quality of its service to or
 1783 from a particular area or site, unless the wireless provider
 1784 voluntarily offers this information to the local government. In
 1785 such local government regulations or review, a local government
 1786 may not require information on or evaluate the wireless
 1787 provider's designed service unless the information or materials

1788 are directly related to an identified land development or zoning
 1789 issue or unless the wireless provider voluntarily offers the
 1790 information. Information or materials directly related to an
 1791 identified land development or zoning issue may include, but are
 1792 not limited to, evidence that no existing structure can
 1793 reasonably be used for the antennae placement instead of the
 1794 construction of a new tower, that residential areas cannot be
 1795 served from outside the residential area, as addressed in
 1796 subparagraph 3., or that the proposed height of a new tower or
 1797 initial antennae placement or a proposed height increase of a
 1798 modified tower, replacement tower, or collocation is necessary
 1799 to provide the provider's designed service. Nothing in this
 1800 paragraph shall limit the local government from reviewing any
 1801 applicable land development or zoning issue addressed in its
 1802 adopted regulations that does not conflict with this section,
 1803 including, but not limited to, aesthetics, landscaping, land use
 1804 based location priorities, structural design, and setbacks.

1805 2. Any setback or distance separation required of a tower
 1806 may not exceed the minimum distance necessary, as determined by
 1807 the local government, to satisfy the structural safety or
 1808 aesthetic concerns that are to be protected by the setback or
 1809 distance separation.

1810 3. A local government may exclude the placement of
 1811 wireless communications facilities in a residential area or
 1812 residential zoning district but only in a manner that does not
 1813 constitute an actual or effective prohibition of the provider's
 1814 service in that residential area or zoning district. If a
 1815 wireless provider demonstrates to the satisfaction of the local

1816 government that the provider cannot reasonably provide its
 1817 service to the residential area or zone from outside the
 1818 residential area or zone, the municipality or county and
 1819 provider shall cooperate to determine an appropriate location
 1820 for a wireless communications facility of an appropriate design
 1821 within the residential area or zone. The local government may
 1822 require that the wireless provider reimburse the reasonable
 1823 costs incurred by the local government for this cooperative
 1824 determination. An application for such cooperative determination
 1825 shall not be considered an application under paragraph (d).

1826 4. A local government may impose a reasonable fee on
 1827 applications to place, construct, or modify a wireless
 1828 communications facility only if a similar fee is imposed on
 1829 applicants seeking other similar types of zoning, land use, or
 1830 building permit review. A local government may impose fees for
 1831 the review of applications for wireless communications
 1832 facilities by consultants or experts who conduct code compliance
 1833 review for the local government but any fee is limited to
 1834 specifically identified reasonable expenses incurred in the
 1835 review. A local government may impose reasonable surety
 1836 requirements to ensure the removal of wireless communications
 1837 facilities that are no longer being used.

1838 5. A local government may impose design requirements, such
 1839 as requirements for designing towers to support collocation or
 1840 aesthetic requirements, except as otherwise limited in this
 1841 section, but shall not impose or require information on
 1842 compliance with building code type standards for the
 1843 construction or modification of wireless communications

1844 facilities beyond those adopted by the local government under
 1845 chapter 553 and that apply to all similar types of construction.

1846 (c) Local governments may not require wireless providers
 1847 to provide evidence of a wireless communications facility's
 1848 compliance with federal regulations, except evidence of
 1849 compliance with applicable Federal Aviation Administration
 1850 requirements under 14 C.F.R. s. 77, as amended, and evidence of
 1851 proper Federal Communications Commission licensure, or other
 1852 evidence of Federal Communications Commission authorized
 1853 spectrum use, but may request the Federal Communications
 1854 Commission to provide information as to a wireless provider's
 1855 compliance with federal regulations, as authorized by federal
 1856 law.

1857 (d)1. A local government shall grant or deny each properly
 1858 completed application for a collocation under subparagraph (a)1.
 1859 based on the application's compliance with the local
 1860 government's applicable regulations, as provided for in
 1861 subparagraph (a)1. and consistent with this subsection, and
 1862 within the normal timeframe for a similar building permit review
 1863 but in no case later than 45 business days after the date the
 1864 application is determined to be properly completed in accordance
 1865 with this paragraph.

1866 2. A local government shall grant or deny each properly
 1867 completed application for any other wireless communications
 1868 facility based on the application's compliance with the local
 1869 government's applicable regulations, including but not limited
 1870 to land development regulations, consistent with this subsection
 1871 and within the normal timeframe for a similar type review but in

HB 1211

2010

1872 no case later than 90 business days after the date the
1873 application is determined to be properly completed in accordance
1874 with this paragraph.

1875 3.a. An application is deemed submitted or resubmitted on
1876 the date the application is received by the local government. If
1877 the local government does not notify the applicant in writing
1878 that the application is not completed in compliance with the
1879 local government's regulations within 20 business days after the
1880 date the application is initially submitted or additional
1881 information resubmitted, the application is deemed, for
1882 administrative purposes only, to be properly completed and
1883 properly submitted. However, the determination shall not be
1884 deemed as an approval of the application. If the application is
1885 not completed in compliance with the local government's
1886 regulations, the local government shall so notify the applicant
1887 in writing and the notification must indicate with specificity
1888 any deficiencies in the required documents or deficiencies in
1889 the content of the required documents which, if cured, make the
1890 application properly completed. Upon resubmission of information
1891 to cure the stated deficiencies, the local government shall
1892 notify the applicant, in writing, within the normal timeframes
1893 of review, but in no case longer than 20 business days after the
1894 additional information is submitted, of any remaining
1895 deficiencies that must be cured. Deficiencies in document type
1896 or content not specified by the local government do not make the
1897 application incomplete. Notwithstanding this sub-subparagraph,
1898 if a specified deficiency is not properly cured when the
1899 applicant resubmits its application to comply with the notice of

HB 1211

2010

1900 deficiencies, the local government may continue to request the
1901 information until such time as the specified deficiency is
1902 cured. The local government may establish reasonable timeframes
1903 within which the required information to cure the application
1904 deficiency is to be provided or the application will be
1905 considered withdrawn or closed.

1906 b. If the local government fails to grant or deny a
1907 properly completed application for a wireless communications
1908 facility within the timeframes set forth in this paragraph, the
1909 application shall be deemed automatically approved and the
1910 applicant may proceed with placement of the facilities without
1911 interference or penalty. The timeframes specified in
1912 subparagraph 2. may be extended only to the extent that the
1913 application has not been granted or denied because the local
1914 government's procedures generally applicable to all other
1915 similar types of applications require action by the governing
1916 body and such action has not taken place within the timeframes
1917 specified in subparagraph 2. Under such circumstances, the local
1918 government must act to either grant or deny the application at
1919 its next regularly scheduled meeting or, otherwise, the
1920 application is deemed to be automatically approved.

1921 c. To be effective, a waiver of the timeframes set forth
1922 in this paragraph must be voluntarily agreed to by the applicant
1923 and the local government. A local government may request, but
1924 not require, a waiver of the timeframes by the applicant, except
1925 that, with respect to a specific application, a one-time waiver
1926 may be required in the case of a declared local, state, or
1927 federal emergency that directly affects the administration of

HB 1211

2010

1928 | all permitting activities of the local government.

1929 | (e) The replacement of or modification to a wireless
 1930 | communications facility, except a tower, that results in a
 1931 | wireless communications facility not readily discernibly
 1932 | different in size, type, and appearance when viewed from ground
 1933 | level from surrounding properties, and the replacement or
 1934 | modification of equipment that is not visible from surrounding
 1935 | properties, all as reasonably determined by the local
 1936 | government, are subject to no more than applicable building
 1937 | permit review.

1938 | (f) Any other law to the contrary notwithstanding, the
 1939 | Department of Management Services shall negotiate, in the name
 1940 | of the state, leases for wireless communications facilities that
 1941 | provide access to state government-owned property not acquired
 1942 | for transportation purposes, and the Department of
 1943 | Transportation shall negotiate, in the name of the state, leases
 1944 | for wireless communications facilities that provide access to
 1945 | property acquired for state rights-of-way. On property acquired
 1946 | for transportation purposes, leases shall be granted in
 1947 | accordance with s. 337.251. On other state government-owned
 1948 | property, leases shall be granted on a space available, first-
 1949 | come, first-served basis. Payments required by state government
 1950 | under a lease must be reasonable and must reflect the market
 1951 | rate for the use of the state government-owned property. The
 1952 | Department of Management Services and the Department of
 1953 | Transportation are authorized to adopt rules for the terms and
 1954 | conditions and granting of any such leases.

1955 | (g) If any person adversely affected by any action, or

HB 1211

2010

1956 failure to act, or regulation, or requirement of a local
 1957 government in the review or regulation of the wireless
 1958 communication facilities files an appeal or brings an
 1959 appropriate action in a court or venue of competent
 1960 jurisdiction, following the exhaustion of all administrative
 1961 remedies, the matter shall be considered on an expedited basis.

1962 Section 49. Subsection (3) of section 381.0055, Florida
 1963 Statutes, is amended to read:

1964 381.0055 Confidentiality and quality assurance
 1965 activities.—

1966 (3) Portions of meetings, proceedings, reports, and
 1967 records of the department, a county health department, healthy
 1968 start coalition, or certified rural health network, or a panel
 1969 or committee assembled by the department, a county health
 1970 department, healthy start coalition, or certified rural health
 1971 network pursuant to this section, which relate solely to patient
 1972 care quality assurance and where specific persons or incidents
 1973 are discussed are confidential and exempt from the provisions of
 1974 s. 119.13(1) ~~286.011~~, and s. 24(b), Art. I of the State
 1975 Constitution and are confidential and exempt from the provisions
 1976 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1977 respectively.

1978 Section 50. Paragraph (b) of subsection (6) of section
 1979 381.84, Florida Statutes, is amended to read:

1980 381.84 Comprehensive Statewide Tobacco Education and Use
 1981 Prevention Program.—

1982 (6) CONTRACT REQUIREMENTS.—Contracts or grants for the
 1983 program components or subcomponents described in paragraphs

HB 1211

2010

1984 (3) (a)-(f) shall be awarded by the State Surgeon General, after
 1985 consultation with the council, on the basis of merit, as
 1986 determined by an open, competitive, peer-reviewed process that
 1987 ensures objectivity, consistency, and high quality. The
 1988 department shall award such grants or contracts no later than
 1989 October 1 for each fiscal year. A recipient of a contract or
 1990 grant for the program component described in paragraph (3) (c) is
 1991 not eligible for a contract or grant award for any other program
 1992 component described in subsection (3) in the same state fiscal
 1993 year. A school or college of medicine that is represented on the
 1994 council is not eligible to receive a contract or grant under
 1995 this section. For the 2009-2010 fiscal year only, the department
 1996 shall award a contract or grant in the amount of \$10 million to
 1997 the AHEC network for the purpose of developing the components
 1998 described in paragraph (3) (i). The AHEC network may apply for a
 1999 competitive contract or grant after the 2009-2010 fiscal year.

2000 (b) The council and the peer review panel shall establish
 2001 and follow rigorous guidelines for ethical conduct and adhere to
 2002 a strict policy with regard to conflicts of interest. A member
 2003 of the council or panel may not participate in any discussion or
 2004 decision with respect to a research proposal by any firm,
 2005 entity, or agency with which the member is associated as a
 2006 member of the governing body or as an employee or with which the
 2007 member has entered into a contractual arrangement. Meetings of
 2008 the council and the peer review panels are subject to chapter
 2009 119, s. 119.13(1) ~~286.011~~, and s. 24, Art. I of the State
 2010 Constitution.

HB 1211

2010

2011 Section 51. Paragraph (h) of subsection (3) of section
 2012 381.85, Florida Statutes, is amended to read:

2013 381.85 Biomedical and social research.—

2014 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

2015 (h) Meetings of the council shall be subject to the
 2016 provisions of chapter 119 and s. 119.13(1) ~~286.011~~.

2017 Section 52. Paragraph (c) of subsection (3) of section
 2018 381.922, Florida Statutes, is amended to read:

2019 381.922 William G. "Bill" Bankhead, Jr., and David Coley
 2020 Cancer Research Program.—

2021 (3)

2022 (c) The council and the peer review panel shall establish
 2023 and follow rigorous guidelines for ethical conduct and adhere to
 2024 a strict policy with regard to conflicts of interest. A member
 2025 of the council or panel may not participate in any discussion or
 2026 decision with respect to a research proposal by any firm,
 2027 entity, or agency with which the member is associated as a
 2028 member of the governing body or as an employee or with which the
 2029 member has entered into a contractual arrangement. Meetings of
 2030 the council and the peer review panels are subject to chapter
 2031 119, s. 119.13(1) ~~286.011~~, and s. 24, Art. I of the State
 2032 Constitution.

2033 Section 53. Subsection (2) of section 383.412, Florida
 2034 Statutes, is amended to read:

2035 383.412 Public records and public meetings exemptions.—

2036 (2) Portions of meetings of the State Child Abuse Death
 2037 Review Committee or local committee, or a panel or committee
 2038 assembled by the state committee or a local committee pursuant

HB 1211

2010

2039 to s. 383.402, at which information made confidential and exempt
 2040 pursuant to subsection (1) is discussed are exempt from s.
 2041 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2042 Constitution.

2043 Section 54. Paragraph (c) of subsection (2) of section
 2044 394.657, Florida Statutes, is amended to read:

2045 394.657 County planning councils or committees.—

2046 (2)

2047 (c) All meetings of the planning council or committee, as
 2048 well as its records, books, documents, and papers, shall be open
 2049 and available to the public in accordance with ss. 119.07 and
 2050 119.13(1) ~~286.011~~.

2051 Section 55. Subsection (7) of section 394.907, Florida
 2052 Statutes, is amended to read:

2053 394.907 Community mental health centers; quality assurance
 2054 programs.—

2055 (7) The department shall have access to all records
 2056 necessary to determine licensee compliance with the provisions
 2057 of this section. The records of quality assurance programs which
 2058 relate solely to actions taken in carrying out the provisions of
 2059 this section, and records obtained by the department to
 2060 determine licensee compliance with this section, are
 2061 confidential and exempt from s. 119.07(1). Such records are not
 2062 admissible in any civil or administrative action, except in
 2063 disciplinary proceedings by the Department of Business and
 2064 Professional Regulation and the appropriate regulatory board,
 2065 nor shall such records be available to the public as part of the
 2066 record of investigation for, and prosecution in disciplinary

HB 1211

2010

2067 | proceedings made available to the public by the Department of
 2068 | Business and Professional Regulation or the appropriate
 2069 | regulatory board. Meetings or portions of meetings of quality
 2070 | assurance program committees that relate solely to actions taken
 2071 | pursuant to this section are exempt from s. 119.13(1) ~~286.011~~.

2072 | Section 56. Subsection (4) of section 395.1056, Florida
 2073 | Statutes, is amended to read:

2074 | 395.1056 Plan components addressing a hospital's response
 2075 | to terrorism; public records exemption; public meetings
 2076 | exemption.—

2077 | (4) That portion of a public meeting which would reveal
 2078 | information contained in a comprehensive emergency management
 2079 | plan that addresses the response of a hospital to an act of
 2080 | terrorism is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b), Art.
 2081 | I of the State Constitution.

2082 | Section 57. Subsections (1) and (3), paragraph (a) of
 2083 | subsection (4), and subsections (7) and (8) of section 395.3035,
 2084 | Florida Statutes, are amended to read:

2085 | 395.3035 Confidentiality of hospital records and
 2086 | meetings.—

2087 | (1) All meetings of a governing board of a public hospital
 2088 | and all public hospital records shall be open and available to
 2089 | the public in accordance with s. 119.13(1) ~~286.011~~ and s. 24(b),
 2090 | Art. I of the State Constitution and chapter 119 and s. 24(a),
 2091 | Art. I of the State Constitution, respectively, unless made
 2092 | confidential or exempt by law.

2093 | (3) Those portions of a governing board meeting at which
 2094 | negotiations for contracts with nongovernmental entities occur

HB 1211

2010

2095 or are reported on when such negotiations or reports concern
2096 services that are or may reasonably be expected by the
2097 hospital's governing board to be provided by competitors of the
2098 hospital are exempt from the provisions of s. 119.13(1) ~~286.011~~
2099 and s. 24(b), Art. I of the State Constitution. All governing
2100 board meetings at which the board is scheduled to vote to
2101 accept, reject, or amend contracts, except managed care
2102 contracts, shall be open to the public. All portions of any
2103 board meeting which are closed to the public shall be recorded
2104 by a certified court reporter. The reporter shall record the
2105 times of commencement and termination of the meeting, all
2106 discussion and proceedings, the names of all persons present at
2107 any time, and the names of all persons speaking. No portion of
2108 the meeting shall be off the record. The court reporter's notes
2109 shall be fully transcribed and maintained by the hospital
2110 records custodian within a reasonable time after the meeting.
2111 The transcript shall become public 1 year after the termination
2112 or completion of the term of the contract to which such
2113 negotiations relate or, if no contract was executed, 1 year
2114 after termination of the negotiations.

2115 (4) (a) Those portions of a board meeting at which one or
2116 more written strategic plans that are confidential pursuant to
2117 subsection (2) are discussed, reported on, modified, or approved
2118 by the governing board are exempt from s. 119.13(1) ~~286.011~~ and
2119 s. 24(b), Art. I of the State Constitution.

2120 (7) If the governing board of the hospital closes a
2121 portion of any board meeting pursuant to subsection (4) before
2122 placing the strategic plan or any separate component of the

HB 1211

2010

2123 strategic plan into operation, the governing board must give
 2124 notice of an open meeting in accordance with s. 119.13(1)
 2125 ~~286.011~~, and conduct the meeting to inform the public, in
 2126 general terms, of the business activity that is to be
 2127 implemented. If a strategic plan involves a substantial
 2128 reduction in the level of medical services provided to the
 2129 public, the meeting notice must be given at least 30 days prior
 2130 to the meeting at which the governing board considers the
 2131 decision to implement the strategic plan.

2132 (8) A hospital may not approve a binding agreement to
 2133 implement a strategic plan at any closed meeting of the board.
 2134 Any such approval must be made at a meeting open to the public
 2135 and noticed in accordance with s. 119.13(1) ~~286.011~~.

2136 Section 58. Section 395.3036, Florida Statutes, is amended
 2137 to read:

2138 395.3036 Confidentiality of records and meetings of
 2139 corporations that lease public hospitals or other public health
 2140 care facilities.—The records of a private corporation that
 2141 leases a public hospital or other public health care facility
 2142 are confidential and exempt from the provisions of s. 119.07(1)
 2143 and s. 24(a), Art. I of the State Constitution, and the meetings
 2144 of the governing board of a private corporation are exempt from
 2145 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2146 Constitution when the public lessor complies with the public
 2147 finance accountability provisions of s. 155.40(5) with respect
 2148 to the transfer of any public funds to the private lessee and
 2149 when the private lessee meets at least three of the five
 2150 following criteria:

HB 1211

2010

2151 (1) The public lessor that owns the public hospital or
 2152 other public health care facility was not the incorporator of
 2153 the private corporation that leases the public hospital or other
 2154 health care facility.

2155 (2) The public lessor and the private lessee do not
 2156 commingle any of their funds in any account maintained by either
 2157 of them, other than the payment of the rent and administrative
 2158 fees or the transfer of funds pursuant to subsection (2).

2159 (3) Except as otherwise provided by law, the private
 2160 lessee is not allowed to participate, except as a member of the
 2161 public, in the decisionmaking process of the public lessor.

2162 (4) The lease agreement does not expressly require the
 2163 lessee to comply with the requirements of ss. 119.07(1) and
 2164 119.13(1) ~~286.011~~.

2165 (5) The public lessor is not entitled to receive any
 2166 revenues from the lessee, except for rental or administrative
 2167 fees due under the lease, and the lessor is not responsible for
 2168 the debts or other obligations of the lessee.

2169 Section 59. Subsection (3) of section 395.51, Florida
 2170 Statutes, is amended to read:

2171 395.51 Confidentiality and quality assurance activities of
 2172 trauma agencies.—

2173 (3) Portions of meetings, proceedings, reports, and
 2174 records of a local or regional trauma agency, or a panel or
 2175 committee assembled by a local or regional trauma agency
 2176 pursuant to this chapter, which relate solely to patient care
 2177 quality assurance are confidential and exempt from the
 2178 provisions of s. 119.13(1) ~~286.011~~, and s. 24(b), Art. I of the

HB 1211

2010

2179 State Constitution and are confidential and exempt from the
 2180 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 2181 Constitution, respectively. Patient care quality assurance, for
 2182 the purpose of this section, shall include consideration of
 2183 specific persons, cases, incidents relevant to the performance
 2184 of quality control, and system evaluation.

2185 Section 60. Subsection (5) of section 397.419, Florida
 2186 Statutes, is amended to read:

2187 397.419 Quality improvement programs.—

2188 (5) The department may access all service provider records
 2189 necessary to determine compliance with this section. Records
 2190 relating solely to actions taken in carrying out this section
 2191 and records obtained by the department to determine a provider's
 2192 compliance with this section are confidential and exempt from s.
 2193 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
 2194 records are not admissible in any civil or administrative action
 2195 except in disciplinary proceedings by the Department of Health
 2196 or the appropriate regulatory board, and are not part of the
 2197 record of investigation and prosecution in disciplinary
 2198 proceedings made available to the public by the Department of
 2199 Health or the appropriate regulatory board. Meetings or portions
 2200 of meetings of quality improvement program committees that
 2201 relate solely to actions taken pursuant to this section are
 2202 exempt from s. 119.13(1) ~~286.011~~.

2203 Section 61. Subsections (2) and (3) of section 400.0077,
 2204 Florida Statutes, are amended to read:

2205 400.0077 Confidentiality.—

2206 (2) That portion of an ombudsman council meeting in which

HB 1211

2010

2207 an ombudsman council discusses information that is confidential
 2208 and exempt from the provisions of s. 119.07(1) is closed to the
 2209 public and exempt from the provisions of s. 119.13(1) ~~286.011~~.

2210 (3) All other matters before the council shall be open to
 2211 the public and subject to chapter 119 and s. 119.13(1) ~~286.011~~.

2212 Section 62. Paragraph (a) of subsection (2) of section
 2213 400.119, Florida Statutes, is amended to read:

2214 400.119 Confidentiality of records and meetings of risk
 2215 management and quality assurance committees.—

2216 (2)(a) The meetings of an internal risk management and
 2217 quality assurance committee of a long-term care facility
 2218 licensed under this part or part I of chapter 429 are exempt
 2219 from s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2220 Constitution.

2221 Section 63. Subsection (5) of section 401.425, Florida
 2222 Statutes, is amended to read:

2223 401.425 Emergency medical services quality assurance;
 2224 immunity from liability.—

2225 (5) The records obtained or produced by a committee
 2226 providing quality assurance activities as described in
 2227 subsections (1)-(4) are exempt from the provisions of s.
 2228 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 2229 committee proceedings and meetings regarding quality assurance
 2230 activities are exempt from the provisions of s. 119.13(1)
 2231 ~~286.011~~ and s. 24(b), Art. I of the State Constitution. The
 2232 investigations, proceedings, and records of a committee
 2233 providing quality assurance activities as described in
 2234 subsections (1)-(4) shall not be subject to discovery or

HB 1211

2010

2235 introduction into evidence in any civil action or disciplinary
 2236 proceeding by the department or employing agency arising out of
 2237 matters which are the subject of evaluation and review by the
 2238 committee, and no person who was in attendance at a meeting of
 2239 such committee shall be permitted or required to testify in any
 2240 such civil action or disciplinary proceeding as to any evidence
 2241 or other matters produced or presented during the proceedings of
 2242 such committee or as to any findings, recommendations,
 2243 evaluations, opinions, or other actions of such committee or any
 2244 members thereof. However, information, documents, or records
 2245 provided to the committee from sources external to the committee
 2246 are not immune from discovery or use in any such civil action or
 2247 disciplinary proceeding merely because they were presented
 2248 during proceedings of such committee nor should any person who
 2249 testifies before a committee or who is a member of such
 2250 committee be prevented from testifying as to matters within the
 2251 person's knowledge, but, such witness shall not be asked about
 2252 his or her testimony before a committee or information obtained
 2253 from or opinions formed by him or her as a result of
 2254 participating in activities conducted by a committee.

2255 Section 64. Paragraph (c) of subsection (8) of section
 2256 402.165, Florida Statutes, is amended to read:

2257 402.165 Florida Statewide Advocacy Council; confidential
 2258 records and meetings.—

2259 (8)

2260 (c) Portions of meetings of the statewide council that
 2261 relate to the identity of any client or group of clients subject
 2262 to the protections of this section, that relate to the identity

HB 1211

2010

2263 of an individual who provides information to the council about
 2264 abuse or about alleged violations of constitutional or human
 2265 rights, or wherein testimony is provided relating to records
 2266 otherwise made confidential by law, are exempt from s. 119.13(1)
 2267 ~~286.011~~ and s. 24(b), Art. I of the State Constitution.

2268 Section 65. Paragraph (c) of subsection (8) of section
 2269 402.166, Florida Statutes, is amended to read:

2270 402.166 Florida local advocacy councils; confidential
 2271 records and meetings.—

2272 (8)

2273 (c) Portions of meetings of a local council that relate to
 2274 the identity of any client or group of clients subject to the
 2275 protections of this section, that relate to the identity of an
 2276 individual who provides information to the local council about
 2277 abuse or about alleged violations of constitutional or human
 2278 rights, or when testimony is provided relating to records
 2279 otherwise made confidential by law, are exempt from s. 119.13(1)
 2280 ~~286.011~~ and s. 24(b), Art. I of the State Constitution.

2281 Section 66. Subsection (3) of section 402.22, Florida
 2282 Statutes, is amended to read:

2283 402.22 Education program for students who reside in
 2284 residential care facilities operated by the Department of
 2285 Children and Family Services or the Agency for Persons with
 2286 Disabilities.—

2287 (3) Notwithstanding any provisions of chapters 39, 393,
 2288 394, and 397 to the contrary, the services of the Department of
 2289 Children and Family Services and the Agency for Persons with
 2290 Disabilities and those of the Department of Education and

HB 1211

2010

2291 district school boards shall be mutually supportive and
 2292 complementary of each other. The education programs provided by
 2293 the district school board shall meet the standards prescribed by
 2294 the State Board of Education and the district school board.
 2295 Decisions regarding the design and delivery of department or
 2296 agency treatment or habilitative services shall be made by
 2297 interdisciplinary teams of professional and paraprofessional
 2298 staff of which appropriate district school system administrative
 2299 and instructional personnel shall be invited to be participating
 2300 members. The requirements for maintenance of confidentiality as
 2301 prescribed in chapters 39, 393, 394, and 397 shall be applied to
 2302 information used by such interdisciplinary teams, and such
 2303 information shall be exempt from the provisions of ss. 119.07(1)
 2304 and 119.13(1) ~~286.011~~.

2305 Section 67. Paragraph (a) of subsection (3) of section
 2306 406.075, Florida Statutes, is amended to read:

2307 406.075 Grounds for discipline; disciplinary proceedings.—

2308 (3) (a) The commission chair shall appoint a probable cause
 2309 panel of three members from among the commission membership, one
 2310 of whom shall be a medical examiner. The probable cause panel
 2311 may request staff to perform additional investigations as it
 2312 sees fit.

2313 1. The determination as to whether or not probable cause
 2314 exists shall be made by a majority vote of the probable cause
 2315 panel within 30 working days of its receipt of staff
 2316 investigative findings and recommendations. The commission chair
 2317 may grant 30-day extensions of the 30 working day time limit.

2318 2. All proceedings and findings of the probable cause

HB 1211

2010

2319 panel are exempt from the provisions of s. 119.13(1) ~~286.011~~
 2320 until probable cause has been found or until the subject of the
 2321 investigation waives confidentiality. The complaint, all
 2322 investigative findings, and the recommendations of the probable
 2323 cause panel are exempt from the provisions of s. 119.07(1) until
 2324 10 days after probable cause has been found or until the subject
 2325 of the investigation waives confidentiality. The commission may
 2326 provide such information at any time to any law enforcement
 2327 agency or to any regulatory agency.

2328 Section 68. Paragraph (a) of subsection (3) of section
 2329 409.2558, Florida Statutes, is amended to read:

2330 409.2558 Support distribution and disbursement.—

2331 (3) UNDISTRIBUTABLE COLLECTIONS.—

2332 (a) The department shall establish by rule the method for
 2333 determining a collection or refund to be undistributable to the
 2334 final intended recipient. Before determining a collection or
 2335 refund to be undistributable, the department shall make
 2336 reasonable efforts to locate persons to whom collections or
 2337 refunds are owed so that payment can be made. Location efforts
 2338 may include disclosure through a searchable database of the
 2339 names of obligees, obligors, and depository account numbers on
 2340 the Internet in compliance with the requirements of s.
 2341 119.01 (3) ~~(2)~~ (a).

2342 Section 69. Paragraph (b) of subsection (14) of section
 2343 408.7056, Florida Statutes, is amended to read:

2344 408.7056 Subscriber Assistance Program.—

2345 (14)

2346 (b) Meetings of the panel shall be open to the public

HB 1211

2010

2347 unless the provider or subscriber whose grievance will be heard
 2348 requests a closed meeting or the agency or the department
 2349 determines that information which discloses the subscriber's
 2350 medical treatment or history or information relating to internal
 2351 risk management programs as defined in s. 641.55(5)(c), (6), and
 2352 (8) may be revealed at the panel meeting, in which case that
 2353 portion of the meeting during which a subscriber's medical
 2354 treatment or history or internal risk management program
 2355 information is discussed shall be exempt from the provisions of
 2356 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2357 Constitution. All closed meetings shall be recorded by a
 2358 certified court reporter.

2359 Section 70. Subsection (2) of section 409.91196, Florida
 2360 Statutes, is amended to read:

2361 409.91196 Supplemental rebate agreements; public records
 2362 and public meetings exemption.-

2363 (2) That portion of a meeting of the Medicaid
 2364 Pharmaceutical and Therapeutics Committee at which the rebate
 2365 amount, percent of rebate, manufacturer's pricing, or
 2366 supplemental rebate, or other trade secrets as defined in s.
 2367 688.002 that the agency has identified for use in negotiations,
 2368 are discussed is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b),
 2369 Art. I of the State Constitution. A record shall be made of each
 2370 exempt portion of a meeting. Such record must include the times
 2371 of commencement and termination, all discussions and
 2372 proceedings, the names of all persons present at any time, and
 2373 the names of all persons speaking. No exempt portion of a
 2374 meeting may be held off the record.

HB 1211

2010

2375 Section 71. Paragraph (d) of subsection (2) of section
2376 413.0111, Florida Statutes, is amended to read:

2377 413.0111 Blind services direct-support organization.—
2378 (2)

2379 (d) The direct-support organization is subject to the
2380 requirements of s. 24, Art. I of the State Constitution, chapter
2381 119, and s. 119.13(1) ~~286.011~~.

2382 Section 72. Subsection (7) of section 413.615, Florida
2383 Statutes, is amended to read:

2384 413.615 Florida Endowment for Vocational Rehabilitation.—
2385 (7) CONFIDENTIALITY.—

2386 (a) The identity of a donor or prospective donor to the
2387 Florida Endowment Foundation for Vocational Rehabilitation who
2388 desires to remain anonymous and all information identifying such
2389 donor or prospective donor are confidential and exempt from the
2390 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
2391 Constitution. Portions of meetings of the Florida Endowment
2392 Foundation for Vocational Rehabilitation during which the
2393 identity of donors or prospective donors is discussed are exempt
2394 from the provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I
2395 of the State Constitution.

2396 (b) Records relating to clients of or applicants to the
2397 Division of Vocational Rehabilitation that come into the
2398 possession of the foundation and that are confidential by other
2399 provisions of law are confidential and exempt from the
2400 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
2401 Constitution, and may not be released by the foundation.
2402 Portions of meetings of the Florida Endowment Foundation for

HB 1211

2010

2403 Vocational Rehabilitation during which the identities of such
 2404 clients of or applicants to the Division of Vocational
 2405 Rehabilitation are discussed are exempt from the provisions of
 2406 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2407 Constitution.

2408 Section 73. Section 414.106, Florida Statutes, is amended
 2409 to read:

2410 414.106 Exemption from public meetings law.—That portion
 2411 of a meeting held by the department, Workforce Florida, Inc., or
 2412 a regional workforce board or local committee created pursuant
 2413 to s. 445.007 at which personal identifying information
 2414 contained in records relating to temporary cash assistance is
 2415 discussed is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b), Art.
 2416 I of the State Constitution if the information identifies a
 2417 participant, a participant's family, or a participant's family
 2418 or household member.

2419 Section 74. Subsection (3) of section 440.3851, Florida
 2420 Statutes, is amended to read:

2421 440.3851 Public records and public meetings exemptions.—

2422 (3) That portion of a meeting of the association's board
 2423 of directors or any subcommittee of the association's board at
 2424 which records made confidential and exempt by this section are
 2425 discussed is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b), Art.
 2426 I of the State Constitution. All exempt portions of meetings
 2427 shall be recorded and transcribed. The board shall record the
 2428 times of commencement and termination of the meeting, all
 2429 discussion and proceedings, the names of all persons present at
 2430 any time, and the names of all persons speaking. An exempt

HB 1211

2010

2431 portion of any meeting may not be off the record. Subject to
 2432 this section and s. 119.021(2), the court reporter's notes of
 2433 any exempt portion of a meeting shall be retained by the
 2434 association for a minimum of 5 years. A copy of the transcript
 2435 of any exempt portion of a meeting in which claims files are
 2436 discussed shall become public as to individual claims after
 2437 settlement of the claim with any confidential and exempt
 2438 information redacted.

2439 Section 75. Subsection (10) of section 447.205, Florida
 2440 Statutes, is amended to read:

2441 447.205 Public Employees Relations Commission.—

2442 (10) The deliberations of the commission in any proceeding
 2443 before it are closed and exempt from the provisions of s.

2444 119.13(1) ~~286.011~~. However, any hearing held or oral argument
 2445 heard by the commission pursuant to chapter 120 or this chapter
 2446 shall be open to the public. All draft orders developed in
 2447 preparation for, or preliminary to, the issuance of a final
 2448 written order are confidential and exempt from the provisions of
 2449 s. 119.07(1).

2450 Section 76. Subsections (1) and (2) of section 447.605,
 2451 Florida Statutes, are amended to read:

2452 447.605 Public meetings and records law; exemptions and
 2453 compliance.—

2454 (1) All discussions between the chief executive officer of
 2455 the public employer, or his or her representative, and the
 2456 legislative body or the public employer relative to collective
 2457 bargaining shall be closed and exempt from the provisions of s.
 2458 119.13(1) ~~286.011~~.

HB 1211

2010

2459 (2) The collective bargaining negotiations between a chief
 2460 executive officer, or his or her representative, and a
 2461 bargaining agent shall be in compliance with the provisions of
 2462 s. 286.011.

2463 Section 77. Subsection (5) of section 455.217, Florida
 2464 Statutes, is amended to read:

2465 455.217 Examinations.—This section shall be read in
 2466 conjunction with the appropriate practice act associated with
 2467 each regulated profession under this chapter.

2468 (5) Meetings and records of meetings of any member of the
 2469 department or of any board or commission within the department
 2470 held for the exclusive purpose of creating or reviewing
 2471 licensure examination questions or proposed examination
 2472 questions are confidential and exempt from ss. 119.07(1) and
 2473 119.13(1) ~~286.011~~. However, this exemption shall not affect the
 2474 right of any person to review an examination as provided in
 2475 subsection (3).

2476 Section 78. Subsection (4) of section 455.225, Florida
 2477 Statutes, is amended to read:

2478 455.225 Disciplinary proceedings.—Disciplinary proceedings
 2479 for each board shall be within the jurisdiction of the
 2480 department.

2481 (4) The determination as to whether probable cause exists
 2482 shall be made by majority vote of a probable cause panel of the
 2483 board, or by the department, as appropriate. Each regulatory
 2484 board shall provide by rule that the determination of probable
 2485 cause shall be made by a panel of its members or by the
 2486 department. Each board may provide by rule for multiple probable

HB 1211

2010

2487 cause panels composed of at least two members. Each board may
2488 provide by rule that one or more members of the panel or panels
2489 may be a former board member. The length of term or repetition
2490 of service of any such former board member on a probable cause
2491 panel may vary according to the direction of the board when
2492 authorized by board rule. Any probable cause panel must include
2493 one of the board's former or present consumer members, if one is
2494 available, willing to serve, and is authorized to do so by the
2495 board chair. Any probable cause panel must include a present
2496 board member. Any probable cause panel must include a former or
2497 present professional board member. However, any former
2498 professional board member serving on the probable cause panel
2499 must hold an active valid license for that profession. All
2500 proceedings of the panel are exempt from s. 119.13(1) ~~286.011~~
2501 until 10 days after probable cause has been found to exist by
2502 the panel or until the subject of the investigation waives his
2503 or her privilege of confidentiality. The probable cause panel
2504 may make a reasonable request, and upon such request the
2505 department shall provide such additional investigative
2506 information as is necessary to the determination of probable
2507 cause. A request for additional investigative information shall
2508 be made within 15 days from the date of receipt by the probable
2509 cause panel of the investigative report of the department. The
2510 probable cause panel or the department, as may be appropriate,
2511 shall make its determination of probable cause within 30 days
2512 after receipt by it of the final investigative report of the
2513 department. The secretary may grant extensions of the 15-day and
2514 the 30-day time limits. In lieu of a finding of probable cause,

HB 1211

2010

2515 the probable cause panel, or the department when there is no
2516 board, may issue a letter of guidance to the subject. If, within
2517 the 30-day time limit, as may be extended, the probable cause
2518 panel does not make a determination regarding the existence of
2519 probable cause or does not issue a letter of guidance in lieu of
2520 a finding of probable cause, the department, for disciplinary
2521 cases under its jurisdiction, must make a determination
2522 regarding the existence of probable cause within 10 days after
2523 the expiration of the time limit. If the probable cause panel
2524 finds that probable cause exists, it shall direct the department
2525 to file a formal complaint against the licensee. The department
2526 shall follow the directions of the probable cause panel
2527 regarding the filing of a formal complaint. If directed to do
2528 so, the department shall file a formal complaint against the
2529 subject of the investigation and prosecute that complaint
2530 pursuant to chapter 120. However, the department may decide not
2531 to prosecute the complaint if it finds that probable cause had
2532 been improvidently found by the panel. In such cases, the
2533 department shall refer the matter to the board. The board may
2534 then file a formal complaint and prosecute the complaint
2535 pursuant to chapter 120. The department shall also refer to the
2536 board any investigation or disciplinary proceeding not before
2537 the Division of Administrative Hearings pursuant to chapter 120
2538 or otherwise completed by the department within 1 year after the
2539 filing of a complaint. The department, for disciplinary cases
2540 under its jurisdiction, must establish a uniform reporting
2541 system to quarterly refer to each board the status of any
2542 investigation or disciplinary proceeding that is not before the

HB 1211

2010

2543 Division of Administrative Hearings or otherwise completed by
 2544 the department within 1 year after the filing of the complaint.
 2545 A probable cause panel or a board may retain independent legal
 2546 counsel, employ investigators, and continue the investigation as
 2547 it deems necessary; all costs thereof shall be paid from the
 2548 Professional Regulation Trust Fund. All proceedings of the
 2549 probable cause panel are exempt from s. 120.525.

2550 Section 79. Subsection (1) of section 455.232, Florida
 2551 Statutes, is amended to read:

2552 455.232 Disclosure of confidential information.—

2553 (1) No officer, employee, or person under contract with
 2554 the department, or any board therein, or any subject of an
 2555 investigation shall convey knowledge or information to any
 2556 person who is not lawfully entitled to such knowledge or
 2557 information about any public meeting or public record, which at
 2558 the time such knowledge or information is conveyed is exempt
 2559 from the provisions of s. 119.01, s. 119.07(1), or s. 119.13(1)
 2560 ~~286.011~~.

2561 Section 80. Subsection (15) of section 455.32, Florida
 2562 Statutes, is amended to read:

2563 455.32 Management Privatization Act.—

2564 (15) Corporation records are public records subject to the
 2565 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 2566 Constitution; however, public records exemptions set forth in
 2567 ss. 455.217, 455.225, and 455.229 for records held by the
 2568 department shall apply to records held by the corporation. In
 2569 addition, all meetings of the board of directors are open to the
 2570 public in accordance with s. 119.13(1) ~~286.011~~ and s. 24(b),

HB 1211

2010

2571 Art. I of the State Constitution. The department and the board
 2572 shall have access to all records of the corporation as necessary
 2573 to exercise their authority to approve and supervise the
 2574 contract. The Auditor General and the Office of Program Policy
 2575 Analysis and Government Accountability shall have access to all
 2576 records of the corporation as necessary to conduct financial and
 2577 operational audits or examinations.

2578 Section 81. Subsection (4) of section 456.017, Florida
 2579 Statutes, is amended to read:

2580 456.017 Examinations.—

2581 (4) Meetings of any member of the department or of any
 2582 board within the department held for the exclusive purpose of
 2583 creating or reviewing licensure examination questions or
 2584 proposed examination questions are exempt from the provisions of
 2585 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2586 Constitution. Any public records, such as tape recordings,
 2587 minutes, or notes, generated during or as a result of such
 2588 meetings are confidential and exempt from the provisions of s.
 2589 119.07(1) and s. 24(a), Art. I of the State Constitution.
 2590 However, these exemptions shall not affect the right of any
 2591 person to review an examination as provided in subsection (2).

2592 Section 82. Subsection (4) of section 456.073, Florida
 2593 Statutes, is amended to read:

2594 456.073 Disciplinary proceedings.—Disciplinary proceedings
 2595 for each board shall be within the jurisdiction of the
 2596 department.

2597 (4) The determination as to whether probable cause exists
 2598 shall be made by majority vote of a probable cause panel of the

HB 1211

2010

2599 board, or by the department, as appropriate. Each regulatory
 2600 board shall provide by rule that the determination of probable
 2601 cause shall be made by a panel of its members or by the
 2602 department. Each board may provide by rule for multiple probable
 2603 cause panels composed of at least two members. Each board may
 2604 provide by rule that one or more members of the panel or panels
 2605 may be a former board member. The length of term or repetition
 2606 of service of any such former board member on a probable cause
 2607 panel may vary according to the direction of the board when
 2608 authorized by board rule. Any probable cause panel must include
 2609 one of the board's former or present consumer members, if one is
 2610 available, is willing to serve, and is authorized to do so by
 2611 the board chair. Any probable cause panel must include a present
 2612 board member. Any probable cause panel must include a former or
 2613 present professional board member. However, any former
 2614 professional board member serving on the probable cause panel
 2615 must hold an active valid license for that profession. All
 2616 proceedings of the panel are exempt from s. 119.13(1) ~~286.011~~
 2617 until 10 days after probable cause has been found to exist by
 2618 the panel or until the subject of the investigation waives his
 2619 or her privilege of confidentiality. The probable cause panel
 2620 may make a reasonable request, and upon such request the
 2621 department shall provide such additional investigative
 2622 information as is necessary to the determination of probable
 2623 cause. A request for additional investigative information shall
 2624 be made within 15 days from the date of receipt by the probable
 2625 cause panel of the investigative report of the department or the
 2626 agency. The probable cause panel or the department, as may be

HB 1211

2010

2627 appropriate, shall make its determination of probable cause
2628 within 30 days after receipt by it of the final investigative
2629 report of the department. The State Surgeon General may grant
2630 extensions of the 15-day and the 30-day time limits. In lieu of
2631 a finding of probable cause, the probable cause panel, or the
2632 department if there is no board, may issue a letter of guidance
2633 to the subject. If, within the 30-day time limit, as may be
2634 extended, the probable cause panel does not make a determination
2635 regarding the existence of probable cause or does not issue a
2636 letter of guidance in lieu of a finding of probable cause, the
2637 department must make a determination regarding the existence of
2638 probable cause within 10 days after the expiration of the time
2639 limit. If the probable cause panel finds that probable cause
2640 exists, it shall direct the department to file a formal
2641 complaint against the licensee. The department shall follow the
2642 directions of the probable cause panel regarding the filing of a
2643 formal complaint. If directed to do so, the department shall
2644 file a formal complaint against the subject of the investigation
2645 and prosecute that complaint pursuant to chapter 120. However,
2646 the department may decide not to prosecute the complaint if it
2647 finds that probable cause has been improvidently found by the
2648 panel. In such cases, the department shall refer the matter to
2649 the board. The board may then file a formal complaint and
2650 prosecute the complaint pursuant to chapter 120. The department
2651 shall also refer to the board any investigation or disciplinary
2652 proceeding not before the Division of Administrative Hearings
2653 pursuant to chapter 120 or otherwise completed by the department
2654 within 1 year after the filing of a complaint. The department,

HB 1211

2010

2655 | for disciplinary cases under its jurisdiction, must establish a
 2656 | uniform reporting system to quarterly refer to each board the
 2657 | status of any investigation or disciplinary proceeding that is
 2658 | not before the Division of Administrative Hearings or otherwise
 2659 | completed by the department within 1 year after the filing of
 2660 | the complaint. Annually, the department, in consultation with
 2661 | the applicable probable cause panel, must establish a plan to
 2662 | expedite or otherwise close any investigation or disciplinary
 2663 | proceeding that is not before the Division of Administrative
 2664 | Hearings or otherwise completed by the department within 1 year
 2665 | after the filing of the complaint. A probable cause panel or a
 2666 | board may retain independent legal counsel, employ
 2667 | investigators, and continue the investigation as it deems
 2668 | necessary; all costs thereof shall be paid from a trust fund
 2669 | used by the department to implement this chapter. All
 2670 | proceedings of the probable cause panel are exempt from s.
 2671 | 120.525.

2672 | Section 83. Subsection (1) of section 456.082, Florida
 2673 | Statutes, is amended to read:

2674 | 456.082 Disclosure of confidential information.—

2675 | (1) No officer, employee, or person under contract with
 2676 | the department, or any board therein, or any subject of an
 2677 | investigation shall convey knowledge or information to any
 2678 | person who is not lawfully entitled to such knowledge or
 2679 | information about any public meeting or public record, which at
 2680 | the time such knowledge or information is conveyed is exempt
 2681 | from the provisions of s. 119.01, s. 119.07(1), or s. 119.13(1)
 2682 | ~~286.011~~.

HB 1211

2010

2683 Section 84. Subsection (3) of section 466.022, Florida
 2684 Statutes, is amended to read:

2685 466.022 Peer review; records; immunity; confidentiality.—

2686 (3) Peer review information obtained by the department as
 2687 background information shall remain confidential and exempt from
 2688 ss. 119.07(1) and 119.13(1) ~~286.011~~ regardless of whether
 2689 probable cause is found. The provisions of s. 766.101 continue
 2690 to apply in full notwithstanding the fact that peer review
 2691 information becomes available to the department pursuant to this
 2692 chapter. For the purpose of this section, official records of
 2693 peer review organizations or committees include correspondence
 2694 between the dentist who is the subject of the complaint and the
 2695 organization; correspondence between the complainant and the
 2696 organization; diagnostic data, treatment plans, and radiographs
 2697 used by investigators or otherwise relied upon by the
 2698 organization or committee; results of patient examinations;
 2699 interviews; evaluation worksheets; recommendation worksheets;
 2700 and peer review report forms.

2701 Section 85. Subsection (7) of section 471.038, Florida
 2702 Statutes, is amended to read:

2703 471.038 Florida Engineers Management Corporation.—

2704 (7) Management corporation records are public records
 2705 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
 2706 of the State Constitution; however, public records exemptions
 2707 set forth in ss. 455.217 and 455.229 for records created or
 2708 maintained by the department shall apply to records created or
 2709 maintained by the management corporation. In addition, all
 2710 meetings of the board of directors are open to the public in

HB 1211

2010

2711 accordance with s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the
2712 State Constitution. The exemptions set forth in s. 455.225,
2713 relating to complaints and information obtained pursuant to an
2714 investigation by the department, shall apply to such records
2715 created or obtained by the management corporation only until an
2716 investigation ceases to be active. For the purposes of this
2717 subsection, an investigation is considered active so long as the
2718 management corporation or any law enforcement or administrative
2719 agency is proceeding with reasonable dispatch and has a
2720 reasonable, good faith belief that it may lead to the filing of
2721 administrative, civil, or criminal proceedings. An investigation
2722 ceases to be active when the case is dismissed prior to a
2723 finding of probable cause and the board has not exercised its
2724 option to pursue the case or 10 days after the board makes a
2725 determination regarding probable cause. All information,
2726 records, and transcriptions regarding a complaint that has been
2727 determined to be legally sufficient to state a claim within the
2728 jurisdiction of the board become available to the public when
2729 the investigation ceases to be active, except information that
2730 is otherwise confidential or exempt from s. 119.07(1). However,
2731 in response to an inquiry about the licensure status of an
2732 individual, the management corporation shall disclose the
2733 existence of an active investigation if the nature of the
2734 violation under investigation involves the potential for
2735 substantial physical or financial harm to the public. The board
2736 shall designate by rule those violations that involve the
2737 potential for substantial physical or financial harm. The
2738 department and the board shall have access to all records of the

HB 1211

2010

2739 management corporation, as necessary to exercise their authority
 2740 to approve and supervise the contract.

2741 Section 86. Subsection (5) of section 472.0131, Florida
 2742 Statutes, is amended to read:

2743 472.0131 Examinations; development; administration.—

2744 (5) Meetings and records of meetings of any member of the
 2745 department or of the board held for the exclusive purpose of
 2746 creating or reviewing licensure examination questions or
 2747 proposed examination questions are confidential and exempt from
 2748 ss. 119.07(1) and 119.13(1) ~~286.011~~. However, this exemption
 2749 does not affect the right of any person to review an examination
 2750 as provided in subsection (3).

2751 Section 87. Subsection (1) of section 472.02011, Florida
 2752 Statutes, is amended to read:

2753 472.02011 Disclosure of confidential information.—

2754 (1) An officer, employee, or person under contract with
 2755 the department or the board, or any subject of an investigation
 2756 may not convey knowledge or information to any person who is not
 2757 lawfully entitled to such knowledge or information about any
 2758 public meeting or public record, which at the time such
 2759 knowledge or information is conveyed is exempt from the
 2760 provisions of s. 119.01, s. 119.07(1), or s. 119.13(1) ~~286.011~~.

2761 Section 88. Subsection (4) of section 472.033, Florida
 2762 Statutes, is amended to read:

2763 472.033 Disciplinary proceedings.—Disciplinary proceedings
 2764 for the board shall be within the jurisdiction of the
 2765 department.

2766 (4) The determination as to whether probable cause exists

HB 1211

2010

2767 shall be made by majority vote of a probable cause panel of the
 2768 board, or by the department, as appropriate. The board shall
 2769 provide by rule that the determination of probable cause shall
 2770 be made by a panel of its members or by the department. The
 2771 board may provide by rule for multiple probable cause panels
 2772 composed of at least two members. The board may provide by rule
 2773 that one or more members of the panel or panels may be a former
 2774 board member. The length of term or repetition of service of any
 2775 such former board member on a probable cause panel may vary
 2776 according to the direction of the board when authorized by board
 2777 rule. Any probable cause panel must include one of the board's
 2778 former or present consumer members, if one is available, willing
 2779 to serve, and is authorized to do so by the board chair. Any
 2780 probable cause panel must include a present board member. Any
 2781 probable cause panel must include a former or present
 2782 professional board member. However, any former professional
 2783 board member serving on the probable cause panel must hold an
 2784 active valid license for that profession. All proceedings of the
 2785 panel are exempt from s. 119.13(1) ~~286.011~~ until 10 days after
 2786 probable cause has been found to exist by the panel or until the
 2787 subject of the investigation waives his or her privilege of
 2788 confidentiality. The probable cause panel may make a reasonable
 2789 request, and upon such request the department shall provide such
 2790 additional investigative information as is necessary to the
 2791 determination of probable cause. A request for additional
 2792 investigative information shall be made within 15 days from the
 2793 date of receipt by the probable cause panel of the investigative
 2794 report of the department. The probable cause panel or the

HB 1211

2010

2795 department, as may be appropriate, shall make its determination
2796 of probable cause within 30 days after receipt by it of the
2797 final investigative report of the department. The commissioner
2798 or the commissioner's designee may grant extensions of the 15-
2799 day and the 30-day time limits. In lieu of a finding of probable
2800 cause, the probable cause panel may issue a letter of guidance
2801 to the subject. If, within the 30-day time limit, as may be
2802 extended, the probable cause panel does not make a determination
2803 regarding the existence of probable cause or does not issue a
2804 letter of guidance in lieu of a finding of probable cause, the
2805 department, for disciplinary cases under its jurisdiction, must
2806 make a determination regarding the existence of probable cause
2807 within 10 days after the expiration of the time limit. If the
2808 probable cause panel finds that probable cause exists, it shall
2809 direct the department to file a formal complaint against the
2810 licensee. The department shall follow the directions of the
2811 probable cause panel regarding the filing of a formal complaint.
2812 If directed to do so, the department shall file a formal
2813 complaint against the subject of the investigation and prosecute
2814 that complaint pursuant to chapter 120. However, the department
2815 may decide not to prosecute the complaint if it finds that
2816 probable cause had been improvidently found by the panel. In
2817 such cases, the department shall refer the matter to the board.
2818 The board may then file a formal complaint and prosecute the
2819 complaint pursuant to chapter 120. The department shall also
2820 refer to the board any investigation or disciplinary proceeding
2821 not before the Division of Administrative Hearings pursuant to
2822 chapter 120 or otherwise completed by the department within 1

HB 1211

2010

2823 year after the filing of a complaint. The department, for
 2824 disciplinary cases under its jurisdiction, must establish a
 2825 uniform reporting system to quarterly refer to the board the
 2826 status of any investigation or disciplinary proceeding that is
 2827 not before the Division of Administrative Hearings or otherwise
 2828 completed by the department within 1 year after the filing of
 2829 the complaint. All proceedings of the probable cause panel are
 2830 exempt from s. 120.525.

2831 Section 89. Subsection (1) and paragraph (a) of subsection
 2832 (2) of section 497.172, Florida Statutes, are amended to read:

2833 497.172 Public records exemptions; public meetings
 2834 exemptions.—

2835 (1) EXAMINATION DEVELOPMENT MEETINGS.—Those portions of
 2836 meetings of the board at which licensure examination questions
 2837 or answers under this chapter are discussed are exempt from s.
 2838 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2839 Constitution.

2840 (2) PROBABLE CAUSE PANEL.—

2841 (a) Meetings of the probable cause panel of the board,
 2842 pursuant to s. 497.153, are exempt from s. 119.13(1) ~~286.011~~ and
 2843 s. 24(b), Art. I of the State Constitution.

2844 Section 90. Subsection (2) of section 624.40851, Florida
 2845 Statutes, is amended to read:

2846 624.40851 Confidentiality of risk-based capital
 2847 information.—

2848 (2) Hearings conducted pursuant to s. 624.4085 relating to
 2849 the office's actions regarding any insurer's risk-based capital
 2850 plan, revised risk-based capital plan, risk-based capital

HB 1211

2010

2851 report, or adjusted risk-based capital report, are exempt from
 2852 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2853 Constitution, except as otherwise provided in this section. Such
 2854 hearings shall be recorded by a court reporter. The office shall
 2855 open such hearings or provide a copy of the transcript of such
 2856 hearings or information otherwise made confidential and exempt
 2857 pursuant to this section to a department, agency, or
 2858 instrumentality of this or another state or of the United States
 2859 if the office determines the disclosure is necessary or proper
 2860 for the enforcement of the laws of the United States or of this
 2861 or another state.

2862 Section 91. Subsection (1) of section 624.82, Florida
 2863 Statutes, is amended to read:

2864 624.82 Confidentiality of certain proceedings and
 2865 records.—

2866 (1) Orders, notices, correspondence, reports, records, and
 2867 other information in the possession of the office relating to
 2868 the supervision of any insurer are confidential and exempt from
 2869 the provisions of s. 119.07(1), except as otherwise provided in
 2870 this section. Proceedings and hearings relating to the office's
 2871 supervision of any insurer are exempt from the provisions of s.
 2872 119.13(1) ~~286.011~~, except as otherwise provided in this section.

2873 Section 92. Section 624.86, Florida Statutes, is amended
 2874 to read:

2875 624.86 Other laws; conflicts; meetings between the office
 2876 and the supervisor.—During the period of administrative
 2877 supervision, the office may meet with a supervisor appointed
 2878 under this part and with the attorney or other representative of

HB 1211

2010

2879 the supervisor and such meetings are exempt from the provisions
 2880 of s. 119.13(1) ~~286.011~~.

2881 Section 93. Paragraph (f) of subsection (3) of section
 2882 627.0628, Florida Statutes, is amended to read:

2883 627.0628 Florida Commission on Hurricane Loss Projection
 2884 Methodology; public records exemption; public meetings
 2885 exemption.—

2886 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

2887 (f)1. A trade secret, as defined in s. 812.081, that is
 2888 used in designing and constructing a hurricane loss model and
 2889 that is provided pursuant to this section, by a private company,
 2890 to the commission, office, or consumer advocate appointed
 2891 pursuant to s. 627.0613, is confidential and exempt from s.
 2892 119.07(1) and s. 24(a), Art. I of the State Constitution.

2893 2. That portion of a meeting of the commission or of a
 2894 rate proceeding on an insurer's rate filing at which a trade
 2895 secret made confidential and exempt by this paragraph is
 2896 discussed is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b), Art.
 2897 I of the State Constitution.

2898 3. This paragraph is subject to the Open Government Sunset
 2899 Review Act in accordance with s. 119.15, and shall stand
 2900 repealed on October 2, 2010, unless reviewed and saved from
 2901 repeal through reenactment by the Legislature.

2902 Section 94. Subsection (6) of section 627.091, Florida
 2903 Statutes, is amended to read:

2904 627.091 Rate filings; workers' compensation and employer's
 2905 liability insurances.—

2906 (6) Whenever the committee of a recognized rating

HB 1211

2010

2907 organization with responsibility for workers' compensation and
 2908 employer's liability insurance rates in this state meets to
 2909 discuss the necessity for, or a request for, Florida rate
 2910 increases or decreases, the determination of Florida rates, the
 2911 rates to be requested, and any other matters pertaining
 2912 specifically and directly to such Florida rates, such meetings
 2913 shall be held in this state and shall be subject to s. 119.13(1)
 2914 ~~286.011~~. The committee of such a rating organization shall
 2915 provide at least 3 weeks' prior notice of such meetings to the
 2916 office and shall provide at least 14 days' prior notice of such
 2917 meetings to the public by publication in the Florida
 2918 Administrative Weekly.

2919 Section 95. Section 627.093, Florida Statutes, is amended
 2920 to read:

2921 627.093 Application of s. 119.13(1) ~~286.011~~ to workers'
 2922 compensation and employer's liability insurances.—Section
 2923 119.13(1) ~~286.011~~ shall be applicable to every rate filing,
 2924 approval or disapproval of filing, rating deviation from filing,
 2925 or appeal from any of these regarding workers' compensation and
 2926 employer's liability insurances.

2927 Section 96. Paragraph (b) of subsection (4) of section
 2928 627.311, Florida Statutes, is amended to read:

2929 627.311 Joint underwriters and joint reinsurers; public
 2930 records and public meetings exemptions.—

2931 (4) The Florida Automobile Joint Underwriting Association:

2932 (b) Shall keep portions of association meetings during
 2933 which confidential and exempt underwriting files or confidential
 2934 and exempt claims files are discussed exempt from the provisions

HB 1211

2010

2935 of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 2936 Constitution. All closed portions of association meetings shall
 2937 be recorded by a court reporter. The court reporter shall record
 2938 the times of commencement and termination of the meeting, all
 2939 discussion and proceedings, the names of all persons present at
 2940 any time, and the names of all persons speaking. No portion of
 2941 any closed meeting shall be off the record. Subject to the
 2942 provisions of this paragraph and s. 119.07(1)(d)-(f), the court
 2943 reporter's notes of any closed meeting shall be retained by the
 2944 association for a minimum of 5 years. A copy of the transcript,
 2945 less any confidential and exempt information, of any closed
 2946 meeting during which confidential and exempt claims files are
 2947 discussed shall become public as to individual claims files
 2948 after settlement of that claim.

2949 Section 97. Paragraph (a) of subsection (4) of section
 2950 627.3121, Florida Statutes, is amended to read:

2951 627.3121 Public records and public meetings exemptions.—

2952 (4) (a) That portion of a meeting of the association's
 2953 board of governors, or any subcommittee of the association's
 2954 board, at which records made confidential and exempt by this
 2955 section are discussed is exempt from s. 119.13(1) ~~286.011~~ and s.
 2956 24(b), Art. I of the State Constitution.

2957 Section 98. Paragraph (x) of subsection (6) of section
 2958 627.351, Florida Statutes, is amended to read:

2959 627.351 Insurance risk apportionment plans.—

2960 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2961 (x)1. The following records of the corporation are
 2962 confidential and exempt from the provisions of s. 119.07(1) and

HB 1211

2010

2963 s. 24(a), Art. I of the State Constitution:

2964 a. Underwriting files, except that a policyholder or an
2965 applicant shall have access to his or her own underwriting
2966 files. Confidential and exempt underwriting file records may
2967 also be released to other governmental agencies upon written
2968 request and demonstration of need; such records held by the
2969 receiving agency remain confidential and exempt as provided
2970 herein.

2971 b. Claims files, until termination of all litigation and
2972 settlement of all claims arising out of the same incident,
2973 although portions of the claims files may remain exempt, as
2974 otherwise provided by law. Confidential and exempt claims file
2975 records may be released to other governmental agencies upon
2976 written request and demonstration of need; such records held by
2977 the receiving agency remain confidential and exempt as provided
2978 herein.

2979 c. Records obtained or generated by an internal auditor
2980 pursuant to a routine audit, until the audit is completed, or if
2981 the audit is conducted as part of an investigation, until the
2982 investigation is closed or ceases to be active. An investigation
2983 is considered "active" while the investigation is being
2984 conducted with a reasonable, good faith belief that it could
2985 lead to the filing of administrative, civil, or criminal
2986 proceedings.

2987 d. Matters reasonably encompassed in privileged attorney-
2988 client communications.

2989 e. Proprietary information licensed to the corporation
2990 under contract and the contract provides for the confidentiality

HB 1211

2010

2991 | of such proprietary information.

2992 | f. All information relating to the medical condition or
 2993 | medical status of a corporation employee which is not relevant
 2994 | to the employee's capacity to perform his or her duties, except
 2995 | as otherwise provided in this paragraph. Information that is
 2996 | exempt shall include, but is not limited to, information
 2997 | relating to workers' compensation, insurance benefits, and
 2998 | retirement or disability benefits.

2999 | g. Upon an employee's entrance into the employee
 3000 | assistance program, a program to assist any employee who has a
 3001 | behavioral or medical disorder, substance abuse problem, or
 3002 | emotional difficulty which affects the employee's job
 3003 | performance, all records relative to that participation shall be
 3004 | confidential and exempt from the provisions of s. 119.07(1) and
 3005 | s. 24(a), Art. I of the State Constitution, except as otherwise
 3006 | provided in s. 112.0455(11).

3007 | h. Information relating to negotiations for financing,
 3008 | reinsurance, depopulation, or contractual services, until the
 3009 | conclusion of the negotiations.

3010 | i. Minutes of closed meetings regarding underwriting
 3011 | files, and minutes of closed meetings regarding an open claims
 3012 | file until termination of all litigation and settlement of all
 3013 | claims with regard to that claim, except that information
 3014 | otherwise confidential or exempt by law shall be redacted.

3015 | 2. If an authorized insurer is considering underwriting a
 3016 | risk insured by the corporation, relevant underwriting files and
 3017 | confidential claims files may be released to the insurer
 3018 | provided the insurer agrees in writing, notarized and under

HB 1211

2010

3019 | oath, to maintain the confidentiality of such files. If a file
3020 | is transferred to an insurer, that file is no longer a public
3021 | record because it is not held by an agency subject to the
3022 | provisions of the public records law. Underwriting files and
3023 | confidential claims files may also be released to staff and the
3024 | board of governors of the market assistance plan established
3025 | pursuant to s. 627.3515, who must retain the confidentiality of
3026 | such files, except such files may be released to authorized
3027 | insurers that are considering assuming the risks to which the
3028 | files apply, provided the insurer agrees in writing, notarized
3029 | and under oath, to maintain the confidentiality of such files.
3030 | Finally, the corporation or the board or staff of the market
3031 | assistance plan may make the following information obtained from
3032 | underwriting files and confidential claims files available to
3033 | licensed general lines insurance agents: name, address, and
3034 | telephone number of the residential property owner or insured;
3035 | location of the risk; rating information; loss history; and
3036 | policy type. The receiving licensed general lines insurance
3037 | agent must retain the confidentiality of the information
3038 | received.

3039 | 3. A policyholder who has filed suit against the
3040 | corporation has the right to discover the contents of his or her
3041 | own claims file to the same extent that discovery of such
3042 | contents would be available from a private insurer in litigation
3043 | as provided by the Florida Rules of Civil Procedure, the Florida
3044 | Evidence Code, and other applicable law. Pursuant to subpoena, a
3045 | third party has the right to discover the contents of an
3046 | insured's or applicant's underwriting or claims file to the same

HB 1211

2010

3047 | extent that discovery of such contents would be available from a
3048 | private insurer by subpoena as provided by the Florida Rules of
3049 | Civil Procedure, the Florida Evidence Code, and other applicable
3050 | law, and subject to any confidentiality protections requested by
3051 | the corporation and agreed to by the seeking party or ordered by
3052 | the court. The corporation may release confidential underwriting
3053 | and claims file contents and information as it deems necessary
3054 | and appropriate to underwrite or service insurance policies and
3055 | claims, subject to any confidentiality protections deemed
3056 | necessary and appropriate by the corporation.

3057 | 4. Portions of meetings of the corporation are exempt from
3058 | the provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of
3059 | the State Constitution wherein confidential underwriting files
3060 | or confidential open claims files are discussed. All portions of
3061 | corporation meetings which are closed to the public shall be
3062 | recorded by a court reporter. The court reporter shall record
3063 | the times of commencement and termination of the meeting, all
3064 | discussion and proceedings, the names of all persons present at
3065 | any time, and the names of all persons speaking. No portion of
3066 | any closed meeting shall be off the record. Subject to the
3067 | provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
3068 | notes of any closed meeting shall be retained by the corporation
3069 | for a minimum of 5 years. A copy of the transcript, less any
3070 | exempt matters, of any closed meeting wherein claims are
3071 | discussed shall become public as to individual claims after
3072 | settlement of the claim.

3073 | Section 99. Paragraph (f) of subsection (2) of section
3074 | 627.6488, Florida Statutes, is amended to read:

HB 1211

2010

3075 | 627.6488 Florida Comprehensive Health Association.—
 3076 | (2)
 3077 | (f) Meetings of the board are subject to s. 119.13(1)
 3078 | ~~286.011~~.

3079 | Section 100. Section 631.724, Florida Statutes, is amended
 3080 | to read:

3081 | 631.724 Records and meetings of association.—Records shall
 3082 | be kept of all negotiations and meetings in which the
 3083 | association or its representatives discuss the activities of the
 3084 | association in carrying out its powers and duties under s.
 3085 | 631.717. Such negotiations or meetings are exempt from the
 3086 | provisions of s. 119.13(1) ~~286.011~~, and any records of such
 3087 | negotiations or meetings are confidential and exempt from the
 3088 | provisions of s. 119.07(1) until the termination of a
 3089 | delinquency proceeding. Nothing in this section shall limit the
 3090 | duty of the association to render a report of its activities
 3091 | under s. 631.725.

3092 | Section 101. Section 631.932, Florida Statutes, is amended
 3093 | to read:

3094 | 631.932 Negotiations; public meetings and records
 3095 | exemptions.—Negotiations held between an insurer and the Florida
 3096 | Workers' Compensation Insurance Guaranty Association are exempt
 3097 | from the provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I
 3098 | of the State Constitution. Documents related to such
 3099 | negotiations that reveal identifiable payroll and loss and
 3100 | individual claim information are confidential and exempt from
 3101 | the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 3102 | Constitution.

HB 1211

2010

3103 Section 102. Subsection (5) of section 633.175, Florida
 3104 Statutes, is amended to read:

3105 633.175 Investigation of fraudulent insurance claims and
 3106 crimes; immunity of insurance companies supplying information.—

3107 (5) At such time as the release of the investigative
 3108 records is required by law, the official or agency in possession
 3109 of such records shall provide written notice to the insurance
 3110 company providing the information and to all parties, at least
 3111 10 days prior to releasing such records. Official, departmental,
 3112 or agency personnel may discuss such matters with other
 3113 official, departmental, or agency personnel, and any insurance
 3114 company complying with this section, and may share such
 3115 information, if such discussion is necessary to enable the
 3116 orderly and efficient conduct of the investigation. These
 3117 discussions are confidential and exempt from the provisions of
 3118 s. 119.13(1) ~~286.011~~.

3119 Section 103. Section 641.68, Florida Statutes, is amended
 3120 to read:

3121 641.68 District managed care ombudsman committee;
 3122 exemption from public meeting requirements.—That portion of a
 3123 committee meeting conducted by a district managed care ombudsman
 3124 committee created under s. 641.65, where patient records and
 3125 information identifying a complainant are discussed, is exempt
 3126 from the provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I
 3127 of the State Constitution.

3128 Section 104. Subsection (2) of section 641.75, Florida
 3129 Statutes, is amended to read:

3130 641.75 Immunity from liability; limitation on testimony.—

HB 1211

2010

3131 (2) Except as otherwise provided by law, all other matters
 3132 before the statewide committee or district committees shall be
 3133 open to the public and subject to chapter 119 and s. 119.13(1)
 3134 ~~286.011~~.

3135 Section 105. Section 655.0321, Florida Statutes, is
 3136 amended to read:

3137 655.0321 Restricted access to certain hearings,
 3138 proceedings, and related documents.—The office shall consider
 3139 the public purposes specified in s. 119.14(4)(b) in determining
 3140 whether the hearings and proceedings conducted pursuant to s.
 3141 655.033 for the issuance of cease and desist orders and s.
 3142 655.037 for the issuance of suspension or removal orders shall
 3143 be closed and exempt from the provisions of s. 119.13(1)
 3144 ~~286.011~~, and whether related documents shall be confidential and
 3145 exempt from the provisions of s. 119.07(1).

3146 Section 106. Paragraph (d) of subsection (2) of section
 3147 723.0611, Florida Statutes, is amended to read:

3148 723.0611 Florida Mobile Home Relocation Corporation.—
 3149 (2)

3150 (d) Meetings of the board of directors are subject to the
 3151 provisions of s. 119.13(1) ~~286.011~~.

3152 Section 107. Subsection (2) of section 741.3165, Florida
 3153 Statutes, is amended to read:

3154 741.3165 Certain information exempt from disclosure.—

3155 (2) Portions of meetings of any domestic violence fatality
 3156 review team regarding domestic violence fatalities and their
 3157 prevention, during which confidential or exempt information, the
 3158 identity of the victim, or the identity of the children of the

HB 1211

2010

3159 | victim is discussed, are exempt from s. 119.13(1) ~~286.011~~ and s.
 3160 | 24(b), Art. I of the State Constitution.

3161 | Section 108. Paragraph (c) of subsection (7) of section
 3162 | 766.101, Florida Statutes, is amended to read:

3163 | 766.101 Medical review committee, immunity from
 3164 | liability.-

3165 | (7)

3166 | (c) So as not to inhibit the willing and voluntary service
 3167 | of professional society members on medical review committees,
 3168 | the department shall use advisory reports from medical
 3169 | committees as background information only and shall prepare its
 3170 | own case using independently prepared evidence and supporting
 3171 | expert opinion for submission to the probable cause panel of a
 3172 | regulatory board formed under chapter 458 or chapter 459.

3173 | Proceedings of medical review committees are exempt from the
 3174 | provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the
 3175 | State Constitution, and any advisory reports provided to the
 3176 | department by such committees are confidential and exempt from
 3177 | the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 3178 | Constitution, regardless of whether probable cause is found. The
 3179 | medical review committee advisory reports and any records
 3180 | created by the medical review committee are not subject to
 3181 | discovery or introduction into evidence in any disciplinary
 3182 | proceeding against a licensee. Further, no person who
 3183 | voluntarily serves on a medical review committee or who
 3184 | investigates a complaint for the committee may be permitted or
 3185 | required to testify in any such disciplinary proceeding as to
 3186 | any evidence or other matters produced or presented during the

HB 1211

2010

3187 | proceedings of such committee or as to any findings,
 3188 | recommendations, evaluations, opinions, or other actions of such
 3189 | committee or any members thereof. However, nothing in this
 3190 | section shall be construed to mean that information, documents,
 3191 | or records otherwise available and obtained from original
 3192 | sources are immune from discovery or use in any such
 3193 | disciplinary proceeding merely because they were presented
 3194 | during proceedings of a peer review organization or committee.
 3195 | Members of medical review committees shall assist the department
 3196 | in identifying such original sources when possible.

3197 | Section 109. Paragraph (c) of subsection (16) of section
 3198 | 768.28, Florida Statutes, is amended to read:

3199 | 768.28 Waiver of sovereign immunity in tort actions;
 3200 | recovery limits; limitation on attorney fees; statute of
 3201 | limitations; exclusions; indemnification; risk management
 3202 | programs.—

3203 | (16)

3204 | (c) Portions of meetings and proceedings conducted
 3205 | pursuant to any risk management program administered by the
 3206 | state, its agencies, or its subdivisions, which relate solely to
 3207 | the evaluation of claims filed with the risk management program
 3208 | or which relate solely to offers of compromise of claims filed
 3209 | with the risk management program are exempt from the provisions
 3210 | of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 3211 | Constitution. Until termination of all litigation and settlement
 3212 | of all claims arising out of the same incident, persons privy to
 3213 | discussions pertinent to the evaluation of a filed claim shall
 3214 | not be subject to subpoena in any administrative or civil

HB 1211

2010

3215 proceeding with regard to the content of those discussions.

3216 Section 110. Paragraph (e) of subsection (1) of section
 3217 910.005, Florida Statutes, is amended to read:

3218 910.005 State criminal jurisdiction.—

3219 (1) A person is subject to prosecution in this state for
 3220 an offense that she or he commits, while either within or
 3221 outside the state, by her or his own conduct or that of another
 3222 for which the person is legally accountable, if:

3223 (e) The conduct constitutes a knowing violation of s.
 3224 119.13(1) ~~286.011~~.

3225 Section 111. Section 910.16, Florida Statutes, is amended
 3226 to read:

3227 910.16 Venue; public meetings law violations.—Any knowing
 3228 violation of s. 119.13(1) ~~286.011~~ occurring outside the state
 3229 shall be prosecuted in the county in which the board or
 3230 commission normally conducts its official business. Any knowing
 3231 violation of s. 119.13(1) ~~286.011~~ occurring within the state may
 3232 be prosecuted in the county in which the board or commission
 3233 normally conducts its official business or, if the infraction
 3234 occurred in another county, in that county.

3235 Section 112. Paragraph (c) of subsection (3) of section
 3236 921.0022, Florida Statutes, is amended to read:

3237 921.0022 Criminal Punishment Code; offense severity
 3238 ranking chart.—

3239 (3) OFFENSE SEVERITY RANKING CHART

3240 (c) LEVEL 3

3241

HB 1211

2010

	Florida Statute	Felony Degree	Description
3242	<u>119.20(4)</u> 119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
3243	316.066(6)(b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
3244	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
3245	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
3246	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
3247	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
3248	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
3249			

HB 1211

2010

3250	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
3251	327.35(2)(b)	3rd	Felony BUI.
3252	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
3253	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
3254	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
	379.2431(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in

HB 1211

2010

3255	379.2431 (1) (e) 6.	3rd	violation of the Marine Turtle Protection Act.
3256	400.9935 (4)	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
3257	440.1051 (3)	3rd	Operating a clinic without a license or filing false license application or other required information.
3258	501.001 (2) (b)	2nd	False report of workers' compensation fraud or retaliation for making such a report.
3259	624.401 (4) (a)	3rd	Tampers with a consumer product or the container using materially false/misleading information.
3260	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority.
			Transacting insurance without a

HB 1211

2010

			certificate of authority; premium collected less than \$20,000.
3261	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
3262	697.08	3rd	Equity skimming.
3263	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
3264	796.05 (1)	3rd	Live on earnings of a prostitute.
3265	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
3266	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
3267	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous

HB 1211

2010

			weapon.
3268	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
3269	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
3270	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
3271	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
3272	817.233	3rd	Burning to defraud insurer.
3273	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
3274	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
3275	817.236	3rd	Filing a false motor vehicle

HB 1211

2010

3276			insurance application.
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
3277			
	817.413 (2)	3rd	Sale of used goods as new.
3278			
	817.505 (4)	3rd	Patient brokering.
3279			
	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
3280			
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
3281			
	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
3282			
	838.021 (3) (b)	3rd	Threatens unlawful harm to

HB 1211

2010

3283			public servant.
3284	843.19	3rd	Injure, disable, or kill police dog or horse.
3285	860.15 (3)	3rd	Overcharging for repairs and parts.
3286	870.01 (2)	3rd	Riot; inciting or encouraging.
3287	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
3288	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs within 1,000 feet of university.
3288	893.13 (1) (f) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1.,

HB 1211

2010

(2) (c) 2., (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (3), or (4) drugs
 within 1,000 feet of public
 housing facility.

3289

893.13 (6) (a) 3rd Possession of any controlled
 substance other than felony
 possession of cannabis.

3290

893.13 (7) (a) 8. 3rd Withhold information from
 practitioner regarding previous
 receipt of or prescription for
 a controlled substance.

3291

893.13 (7) (a) 9. 3rd Obtain or attempt to obtain
 controlled substance by fraud,
 forgery, misrepresentation,
 etc.

3292

893.13 (7) (a) 10. 3rd Affix false or forged label to
 package of controlled
 substance.

3293

893.13 (7) (a) 11. 3rd Furnish false or fraudulent
 material information on any
 document or record required by

HB 1211

2010

3294	893.13(8)(a)1.	3rd	chapter 893. Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
3295	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
3296	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
3297	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a

HB 1211

2010

3298			monetary benefit for the practitioner.
3299	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
3300	944.47(1)(a)1.-	3rd	Introduce contraband to
	2.		correctional facility.
3301	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
3302	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
3303	Section 113. Paragraph (c) of subsection (9) of section		
3304	943.031, Florida Statutes, is amended to read:		
3305	943.031 Florida Violent Crime and Drug Control Council.-		
3306	(9) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS		
3307	AND RECORDS.-		
3308	(c)1. The Florida Violent Crime and Drug Control Council		
3309	may close portions of meetings during which the council will		
3310	hear or discuss active criminal investigative information or		
3311	active criminal intelligence information, and such portions of		
3312	meetings shall be exempt from the provisions of s. <u>119.13(1)</u>		

HB 1211

2010

3313 ~~286.011~~ and s. 24(b), Art. I of the State Constitution, provided
 3314 that the following conditions are met:

3315 a. The chair of the council shall advise the council at a
 3316 public meeting that, in connection with the performance of a
 3317 council duty, it is necessary that the council hear or discuss
 3318 active criminal investigative information or active criminal
 3319 intelligence information.

3320 b. The chair's declaration of necessity for closure and
 3321 the specific reasons for such necessity shall be stated in
 3322 writing in a document that shall be a public record and shall be
 3323 filed with the official records of the council.

3324 c. The entire closed session shall be recorded. The
 3325 recording shall include the times of commencement and
 3326 termination of the closed session, all discussion and
 3327 proceedings, and the names of all persons present. No portion of
 3328 the session shall be off the record. Such recording shall be
 3329 maintained by the council.

3330 2. Only members of the council, Department of Law
 3331 Enforcement staff supporting the council's function, and other
 3332 persons whose presence has been authorized by the chair of the
 3333 council shall be allowed to attend the exempted portions of the
 3334 council meetings. The council shall assure that any closure of
 3335 its meetings as authorized by this section is limited so that
 3336 the general policy of this state in favor of public meetings is
 3337 maintained.

3338 Section 114. Paragraph (a) of subsection (1) of section
 3339 943.0314, Florida Statutes, is amended to read:

3340 943.0314 Public records and public meetings exemptions;

HB 1211

2010

3341 Domestic Security Oversight Council.—

3342 (1) (a) That portion of a meeting of the Domestic Security
 3343 Oversight Council at which the council will hear or discuss
 3344 active criminal investigative information or active criminal
 3345 intelligence information as defined in s. 119.011 is exempt from
 3346 s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 3347 Constitution, if:

3348 1. The chair of the council announces at a public meeting
 3349 that, in connection with the performance of the council's
 3350 duties, it is necessary that active criminal investigative
 3351 information or active criminal intelligence information be
 3352 discussed.

3353 2. The chair declares the specific reasons that it is
 3354 necessary to close the meeting, or portion thereof, in a
 3355 document that is a public record and filed with the official
 3356 records of the council.

3357 3. The entire closed meeting is recorded. The recording
 3358 must include the times of commencement and termination of the
 3359 closed meeting or portion thereof, all discussion and
 3360 proceedings, and the names of the persons present. No portion of
 3361 the closed meeting shall be off the record. The recording shall
 3362 be maintained by the council.

3363 Section 115. Paragraph (a) of subsection (7) of section
 3364 945.602, Florida Statutes, is amended to read:

3365 945.602 State of Florida Correctional Medical Authority;
 3366 creation; members.—

3367 (7) (a) Five members of the authority shall constitute a
 3368 quorum, and the affirmative vote of a majority of the members

HB 1211

2010

3369 present at a meeting of the authority shall be necessary for any
 3370 action taken by the authority. No vacancy in the membership of
 3371 the authority shall impair the right of a quorum to exercise all
 3372 the rights and perform all the duties of the authority. Any
 3373 action taken by the authority under this act may be authorized
 3374 by resolution at any regular or special meeting, and each such
 3375 resolution shall take effect immediately and need not be
 3376 published or posted. All meetings of the authority shall be open
 3377 to the public in accordance with s. 119.13(1) ~~286.011~~.

3378 Section 116. Subsection (3) of section 945.6032, Florida
 3379 Statutes, is amended to read:

3380 945.6032 Quality management program requirements.—

3381 (3) The findings and recommendations of a medical review
 3382 committee created by the authority or the department pursuant to
 3383 s. 766.101 are confidential and exempt from the provisions of s.
 3384 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 3385 any proceedings of the committee are exempt from the provisions
 3386 of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 3387 Constitution.

3388 Section 117. Subsection (4) of section 951.26, Florida
 3389 Statutes, is amended to read:

3390 951.26 Public safety coordinating councils.—

3391 (4) All meetings of a public safety coordinating council,
 3392 as well as its records, books, documents, and papers, are open
 3393 and available to the public in accordance with ss. 119.07 and
 3394 119.13(1) ~~286.011~~.

3395 Section 118. Subsection (5) of section 985.8025, Florida
 3396 Statutes, is amended to read:

HB 1211

2010

3397 985.8025 State Council for Interstate Juvenile Offender
 3398 Supervision.—

3399 (5) The provisions of s. 24, Art. I of the State
 3400 Constitution and of chapter 119 and s. 119.13(1) ~~286.011~~ apply
 3401 to proceedings and records of the council. Minutes, including a
 3402 record of all votes cast, must be maintained for all meetings.

3403 Section 119. Subsection (5) of section 1000.39, Florida
 3404 Statutes, is amended to read:

3405 1000.39 State council; Interstate Compact on Educational
 3406 Opportunity for Military Children.—

3407 (5) The provisions of s. 24, Art. I of the State
 3408 Constitution and of chapter 119 and s. 119.13(1) ~~286.011~~ apply
 3409 to proceedings and records of the council. Minutes, including a
 3410 record of all votes cast, must be maintained for all meetings.

3411 Section 120. Paragraph (b) of subsection (16) of section
 3412 1002.33, Florida Statutes, is amended to read:

3413 1002.33 Charter schools.—

3414 (16) EXEMPTION FROM STATUTES.—

3415 (b) Additionally, a charter school shall be in compliance
 3416 with the following statutes:

3417 1. Section 119.13(1) ~~286.011~~, relating to public meetings
 3418 and records, public inspection, and criminal and civil
 3419 penalties.

3420 2. Chapter 119, relating to public records.

3421 Section 121. Paragraph (b) of subsection (1) of section
 3422 1003.57, Florida Statutes, is amended to read:

3423 1003.57 Exceptional students instruction.—

3424 (1)

3425 (b) A student may not be given special instruction or
 3426 services as an exceptional student until after he or she has
 3427 been properly evaluated, classified, and placed in the manner
 3428 prescribed by rules of the State Board of Education. The parent
 3429 of an exceptional student evaluated and placed or denied
 3430 placement in a program of special education shall be notified of
 3431 each such evaluation and placement or denial. Such notice shall
 3432 contain a statement informing the parent that he or she is
 3433 entitled to a due process hearing on the identification,
 3434 evaluation, and placement, or lack thereof. Such hearings are
 3435 exempt from ss. 120.569, 120.57, and 119.13(1) ~~286.011~~, except
 3436 to the extent that the State Board of Education adopts rules
 3437 establishing other procedures. Any records created as a result
 3438 of such hearings are confidential and exempt from s. 119.07(1).
 3439 The hearing must be conducted by an administrative law judge
 3440 from the Division of Administrative Hearings pursuant to a
 3441 contract between the Department of Education and the Division of
 3442 Administrative Hearings. The decision of the administrative law
 3443 judge is final, except that any party aggrieved by the finding
 3444 and decision rendered by the administrative law judge has the
 3445 right to bring a civil action in the state circuit court. In
 3446 such an action, the court shall receive the records of the
 3447 administrative hearing and shall hear additional evidence at the
 3448 request of either party. In the alternative, in hearings
 3449 conducted on behalf of a student who is identified as gifted,
 3450 any party aggrieved by the finding and decision rendered by the
 3451 administrative law judge has the right to request a review of
 3452 the administrative law judge's order by the district court of

HB 1211

2010

3453 appeal as provided in s. 120.68.

3454 Section 122. Paragraph (b) of subsection (2) of section
3455 1003.62, Florida Statutes, is amended to read:

3456 1003.62 Academic performance-based charter school
3457 districts.—The State Board of Education may enter into a
3458 performance contract with district school boards as authorized
3459 in this section for the purpose of establishing them as academic
3460 performance-based charter school districts. The purpose of this
3461 section is to examine a new relationship between the State Board
3462 of Education and district school boards that will produce
3463 significant improvements in student achievement, while complying
3464 with constitutional and statutory requirements assigned to each
3465 entity.

3466 (2) EXEMPTION FROM STATUTES AND RULES.—

3467 (b) Additionally, an academic performance-based charter
3468 school district shall be in compliance with the following
3469 statutes:

3470 1. Section 119.13(1) ~~286.011~~, relating to public meetings
3471 and records, public inspection, and criminal and civil
3472 penalties.

3473 2. Those statutes pertaining to public records, including
3474 chapter 119.

3475 3. Those statutes pertaining to financial disclosure by
3476 elected officials.

3477 4. Those statutes pertaining to conflicts of interest by
3478 elected officials.

3479 Section 123. Paragraph (a) of subsection (7) of section
3480 1003.63, Florida Statutes, is amended to read:

HB 1211

2010

3481 1003.63 Deregulated public schools pilot program.—
 3482 (7) EXEMPTION FROM STATUTES.—
 3483 (a) A deregulated public school shall operate in
 3484 accordance with its proposal and shall be exempt from all
 3485 statutes of the Florida K-20 Education Code, except those
 3486 pertaining to civil rights and student health, safety, and
 3487 welfare, or as otherwise required by this section. A deregulated
 3488 public school shall not be exempt from the following statutes:
 3489 chapter 119, relating to public records; s. 119.13(1) ~~286.011~~,
 3490 relating to public meetings and records, public inspection, and
 3491 penalties; and chapters 1010 and 1011 if exemption would affect
 3492 funding allocations or create inequity in public school funding.
 3493 Section 124. Paragraph (b) of subsection (8) of section
 3494 1004.226, Florida Statutes, is amended to read:
 3495 1004.226 The 21st Century Technology, Research, and
 3496 Scholarship Enhancement Act.—
 3497 (8) EXEMPTIONS FROM PUBLIC RECORDS AND PUBLIC MEETINGS
 3498 REQUIREMENTS; STATE UNIVERSITY RESEARCH COMMERCIALIZATION
 3499 ASSISTANCE GRANT PROGRAM.—
 3500 (b)1. That portion of a meeting of the Florida Technology,
 3501 Research, and Scholarship Board at which information is
 3502 discussed that is confidential and exempt under subsection (1)
 3503 is exempt from s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the
 3504 State Constitution.
 3505 2. Any records generated during that portion of an exempt
 3506 meeting are confidential and exempt from s. 119.07(1) and s.
 3507 24(a), Art. I of the State Constitution.

HB 1211

2010

3508 Section 125. Subsections (1), (3), and (5) of section
 3509 1004.30, Florida Statutes, are amended to read:

3510 1004.30 University health services support organization;
 3511 confidentiality of information.—

3512 (1) All meetings of a governing board of a university
 3513 health services support organization and all university health
 3514 services support organization records shall be open and
 3515 available to the public in accordance with s. 119.13(1) ~~286.011~~
 3516 and s. 24(b), Art. I of the State Constitution and chapter 119
 3517 and s. 24(a), Art. I of the State Constitution, respectively,
 3518 unless made confidential or exempt by law. Records required by
 3519 the Department of Financial Services or the Office of Insurance
 3520 Regulation of the Financial Services Commission to discharge
 3521 their duties shall be made available to the department upon
 3522 request.

3523 (3) Any portion of a governing board or peer review panel
 3524 or committee meeting during which a confidential and exempt
 3525 contract, document, record, marketing plan, or trade secret, as
 3526 provided for in subsection (2), is discussed is exempt from the
 3527 provisions of s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the
 3528 State Constitution.

3529 (5) The exemptions from s. 119.07(1) and s. 24(a), Art. I
 3530 of the State Constitution and s. 119.13(1) ~~286.011~~ and s. 24(b),
 3531 Art. I of the State Constitution provided in this section do not
 3532 apply if the governing board of a university health services
 3533 support organization votes to lease, sell, or transfer all or
 3534 any substantial part of the facilities or property of the
 3535 university health services support organization to a nonpublic

HB 1211

2010

3536 entity.

3537 Section 126. Subsection (9) of section 1004.43, Florida
 3538 Statutes, is amended to read:

3539 1004.43 H. Lee Moffitt Cancer Center and Research
 3540 Institute.—There is established the H. Lee Moffitt Cancer Center
 3541 and Research Institute at the University of South Florida.

3542 (9) Meetings of the governing board of the not-for-profit
 3543 corporation and meetings of the subsidiaries of the not-for-
 3544 profit corporation at which the expenditure of dollars
 3545 appropriated to the not-for-profit corporation by the state are
 3546 discussed or reported must remain open to the public in
 3547 accordance with s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the
 3548 State Constitution, unless made confidential or exempt by law.
 3549 Other meetings of the governing board of the not-for-profit
 3550 corporation and of the subsidiaries of the not-for-profit
 3551 corporation are exempt from s. 119.13(1) ~~286.011~~ and s. 24(b),
 3552 Art. I of the State Constitution.

3553 Section 127. Paragraph (c) of subsection (2) of section
 3554 1004.447, Florida Statutes, is amended to read:

3555 1004.447 Florida Institute for Human and Machine
 3556 Cognition, Inc.—

3557 (2) The corporation and any authorized and approved
 3558 subsidiary:

3559 (c) Is subject to the open records and meeting
 3560 requirements of s. 24, Art. I of the State Constitution, chapter
 3561 119, and s. 119.13(1) ~~286.011~~.

3562 Section 128. Subsection (4) of section 1004.4472, Florida
 3563 Statutes, is amended to read:

HB 1211

2010

3564 1004.4472 Florida Institute for Human and Machine
 3565 Cognition, Inc.; public records exemption; public meetings
 3566 exemption.—

3567 (4) That portion of a meeting of the corporation or a
 3568 subsidiary at which information is presented or discussed which
 3569 is confidential and exempt pursuant to subsection (2) is exempt
 3570 from s. 119.13(1) ~~286.011~~ and s. 24(b), Art. I of the State
 3571 Constitution.

3572 Section 129. Paragraph (b) of subsection (6) of section
 3573 1005.38, Florida Statutes, is amended to read:

3574 1005.38 Actions against a licensee and other penalties.—

3575 (6) The commission may conduct disciplinary proceedings
 3576 through an investigation of any suspected violation of this
 3577 chapter or any rule of the commission, including a finding of
 3578 probable cause and making reports to any law enforcement agency
 3579 or regulatory agency.

3580 (b)1. All investigatory records held by the commission in
 3581 conjunction with an investigation conducted pursuant to this
 3582 subsection, including minutes and findings of an exempt probable
 3583 cause panel meeting convened in conjunction with such
 3584 investigation, are exempt from s. 119.07(1) and s. 24(a), Art. I
 3585 of the State Constitution for a period not to exceed 10 days
 3586 after the panel makes a determination regarding probable cause.

3587 2. Those portions of meetings of the probable cause panel
 3588 at which records made exempt pursuant to subparagraph 1. are
 3589 discussed are exempt from s. 119.13(1) ~~286.011~~ and s. 24(b),
 3590 Art. I of the State Constitution.

3591 3. This paragraph is subject to the Open Government Sunset

HB 1211

2010

3592 Review Act in accordance with s. 119.15 and shall stand repealed
 3593 on October 2, 2010, unless reviewed and saved from repeal
 3594 through reenactment by the Legislature.

3595 Section 130. Paragraph (a) of subsection (1) of section
 3596 1006.07, Florida Statutes, is amended to read:

3597 1006.07 District school board duties relating to student
 3598 discipline and school safety.—The district school board shall
 3599 provide for the proper accounting for all students, for the
 3600 attendance and control of students at school, and for proper
 3601 attention to health, safety, and other matters relating to the
 3602 welfare of students, including:

3603 (1) CONTROL OF STUDENTS.—

3604 (a) Adopt rules for the control, discipline, in-school
 3605 suspension, suspension, and expulsion of students and decide all
 3606 cases recommended for expulsion. Suspension hearings are
 3607 exempted from the provisions of chapter 120. Expulsion hearings
 3608 shall be governed by ss. 120.569 and 120.57(2) and are exempt
 3609 from s. 119.13(1) ~~286.011~~. However, the student's parent must be
 3610 given notice of the provisions of s. 119.13(1) ~~286.011~~ and may
 3611 elect to have the hearing held in compliance with that section.
 3612 The district school board may prohibit the use of corporal
 3613 punishment, if the district school board adopts or has adopted a
 3614 written program of alternative control or discipline.

3615 Section 131. Subsection (2) of section 1013.14, Florida
 3616 Statutes, is amended to read:

3617 1013.14 Proposed purchase of real property by a board;
 3618 confidentiality of records; procedure.—

3619 (2) Nothing in this section shall be interpreted as

HB 1211

2010

3620 providing an exemption from, or an exception to, s. 119.13(1)
 3621 ~~286.011~~.

3622 Section 132. Paragraph (b) of subsection (2) of section
 3623 1013.15, Florida Statutes, is amended to read:

3624 1013.15 Lease, rental, and lease-purchase of educational
 3625 facilities and sites.-

3626 (2)

3627 (b) A board is authorized to lease-purchase educational
 3628 facilities and sites as defined in s. 1013.01. The lease-
 3629 purchase of educational facilities and sites shall be as
 3630 required by s. 1013.37, shall be advertised for and receive
 3631 competitive proposals and be awarded to the best proposer, and
 3632 shall be funded using current or other funds specifically
 3633 authorized by law to be used for such purpose.

3634 1. A district school board, by itself, or through a
 3635 direct-support organization formed pursuant to s. 1001.453 or
 3636 nonprofit educational organization or a consortium of district
 3637 school boards, may, in developing a lease-purchase of
 3638 educational facilities and sites provide for separately
 3639 advertising for and receiving competitive bids or proposals on
 3640 the construction of facilities and the selection of financing to
 3641 provide the lowest cost funding available, so long as the board
 3642 determines that such process would best serve the public
 3643 interest and the pledged revenues are limited to those
 3644 authorized in s. 1011.71(2)(e).

3645 2. All activities and information, including lists of
 3646 individual participants, associated with agreements made

HB 1211

2010

3647 | pursuant to this section shall be subject to the provisions of
3648 | chapter 119 and s. 119.13(1) ~~286.011~~.

3649 | Section 133. This act shall take effect July 1, 2010.