

By Senator Hays

11-00039-14

2014292\_\_

1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       213.053, F.S.; providing an exemption from public  
4       records requirements for specified information  
5       received by the Department of Revenue relating to the  
6       prepaid wireless E911 fee; authorizing the department  
7       to share such information with the Secretary of  
8       Management Services and the E911 Board; amending s.  
9       365.174, F.S.; including the Department of Revenue as  
10      an additional recipient of specified confidential  
11      information relating to wireless service; providing  
12      for future legislative review and repeal; providing  
13      statements of public necessity; providing a contingent  
14      effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Paragraphs (n) through (v) of subsection (1) of  
19      section 213.053, Florida Statutes, are redesignated as  
20      paragraphs (o) through (w), respectively, a new paragraph (n) is  
21      added to that subsection, and paragraph (cc) is added to  
22      subsection (8) of that section, to read:

23       213.053 Confidentiality and information sharing.—

24       (1) This section applies to:

25       (n) Section 365.172(9), prepaid wireless E911 fee. This  
26      paragraph is subject to the Open Government Sunset Review Act in  
27      accordance with s. 119.15 and is repealed on October 2, 2019,  
28      unless reviewed and saved from repeal through reenactment by the  
29      Legislature;

11-00039-14

2014292\_\_

30 (8) Notwithstanding any other provision of this section,  
31 the department may provide:

32 (cc) Information relative to s. 365.172(9) to the Secretary  
33 of Management Services or his or her authorized agent or to the  
34 E911 Board established in s. 365.172(5) for use in the conduct  
35 of the department's official business.

36  
37 Disclosure of information under this subsection shall be  
38 pursuant to a written agreement between the executive director  
39 and the agency. Such agencies, governmental or nongovernmental,  
40 shall be bound by the same requirements of confidentiality as  
41 the Department of Revenue. Breach of confidentiality is a  
42 misdemeanor of the first degree, punishable as provided by s.  
43 775.082 or s. 775.083.

44 Section 2. Subsection (1) of section 365.174, Florida  
45 Statutes, is amended to read:

46 365.174 Proprietary confidential business information.—

47 (1) (a) All proprietary confidential business information  
48 ~~submitted by a provider to the board or the office,~~ including  
49 the name and billing or service addresses of service  
50 subscribers, and trade secrets as defined by s. 812.081, which  
51 is submitted to:

52 1. The board or the office; or

53 2. The Department of Revenue as an agent of the board,

54  
55 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
56 I of the State Constitution. Statistical abstracts of  
57 information collected by the board or the office may be released  
58 or published, but only in a manner that does not identify or

11-00039-14

2014292\_\_

59 allow identification of subscribers or their service numbers or  
60 of revenues attributable to any provider.

61 (b) Subparagraph (a)2. is subject to the Open Government  
62 Sunset Review Act in accordance with s. 119.15 and shall stand  
63 repealed on October 2, 2019, unless reviewed and saved from  
64 repeal through reenactment by the Legislature.

65 Section 3. (1) The Legislature finds that it is a public  
66 necessity that any confidential proprietary business information  
67 contained in returns, reports, accounts, or declarations  
68 received by the Department of Revenue pursuant to s. 365.172,  
69 Florida Statutes, be exempt from public records requirements.  
70 The disclosure of such information would adversely affect the  
71 business interests of prepaid wireless service providers or  
72 sellers providing the information by harming them in the  
73 marketplace and would impair competition in the communications  
74 industry. Disclosure of data that reveals the business interests  
75 of prepaid wireless service providers or sellers creates a  
76 competitive disadvantage and an unfair advantage for their  
77 competitors. Competitors can use such information to impair full  
78 and fair competition and impede competition in the wireless  
79 marketplace to the disadvantage of consumers of wireless  
80 services. Thus, the public and private harm in disclosing this  
81 information significantly outweighs any public benefit derived  
82 from disclosure and the ability of the public to scrutinize or  
83 monitor agency action is not diminished by nondisclosure of this  
84 information.

85 (2) The Legislature finds that it is a public necessity  
86 that any confidential proprietary business information contained  
87 in returns, reports, accounts, or declarations submitted to the

11-00039-14

2014292\_\_

88 E911 Board, the Technology Program within the Department of  
89 Management Services, or the Department of Revenue as an agent of  
90 the board pursuant to s. 365.174, Florida Statutes, be exempt  
91 from public records requirements. The disclosure of such  
92 information would adversely affect the business interests of  
93 prepaid wireless service providers or sellers providing the  
94 information by harming them in the marketplace and would impair  
95 competition in the communications industry. Disclosure of data  
96 that reveals the business interests of prepaid wireless service  
97 providers or sellers creates a competitive disadvantage and an  
98 unfair advantage for their competitors. Competitors can use such  
99 information to impair full and fair competition and impede  
100 competition in the wireless marketplace to the disadvantage of  
101 consumers of wireless services. Thus, the public and private  
102 harm in disclosing this information significantly outweighs any  
103 public benefit derived from disclosure and the ability of the  
104 public to scrutinize or monitor agency action is not diminished  
105 by nondisclosure of this information.

106 Section 4. This act shall take effect on the same date that  
107 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
108 is adopted in the same legislative session or an extension  
109 thereof and becomes law.