

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Rodrigues, R. offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (4) of section 377.45, Florida
 8 Statutes, as created by HB 1205, 2015 Regular Session, is
 9 renumbered as subsection (5), and a new subsection (4) is added
 10 to that section to read:

11 377.45 High-pressure well stimulation chemical disclosure
 12 registry.—

13 (4) (a) As used in this subsection, the term "proprietary
 14 business information" means information that:

15 1. Is owned or controlled by the applicant or a person
 16 affiliated with the applicant.

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17 2. Is intended to be private and is treated by the
18 applicant as private because disclosure would harm the applicant
19 or the applicant's business operations.

20 3. Has not been disclosed except as required by law or a
21 private agreement that provides that the information will not be
22 released to the public.

23 4. Is not publicly available or otherwise readily
24 ascertainable through proper means from another source in the
25 same configuration as requested by the department.

26 5. Includes:

27 a. Trade secrets as defined in s. 688.002.

28 b. Leasing plans, real property acquisition plans,
29 exploration budgets, or marketing studies, the disclosure of
30 which would impair the efforts of the applicant or its
31 affiliates to contract for goods or services or to acquire real
32 property interests on favorable terms.

33 c. Competitive interests, which may include well design or
34 completion plans, geological or engineering studies related to
35 storage reservoir performance characteristics, or field
36 utilization strategies or operating plans, the disclosure of
37 which would impair the competitive business of the applicant
38 providing the information.

39 (b) Proprietary business information relating to high-
40 pressure well stimulations held by the department in connection
41 with the online high-pressure well stimulation chemical
42 disclosure registry are confidential and exempt from s.

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43 119.07(1) and s. 24(a), Art. I of the State Constitution if the
44 person submitting such information to the department:

45 1. Requests that the proprietary business information be
46 kept confidential and exempt;

47 2. Informs the department of the basis for claiming the
48 information is proprietary business information; and

49 3. Clearly marks each page of a document or specific
50 portion of a document containing information claimed to be
51 proprietary business information as "proprietary business
52 information."

53 (c) If the department receives a public records request
54 for a document that is marked proprietary business information
55 under this section, the department must promptly notify the
56 person who submitted the information as proprietary business
57 information. The notice must inform such person that the person
58 has 10 days following receipt of such notice to file an action
59 in circuit court seeking a determination whether the document in
60 question contains proprietary business information and an order
61 barring public disclosure of the document. If the person files
62 an action within 10 days after receipt of notice of the public
63 records request, the department may not release the documents
64 pending the outcome of the legal action. The failure to file an
65 action within 10 days constitutes a waiver of any claim of
66 confidentiality, and the department shall release the document
67 as requested.

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68 (d) Confidential and exempt proprietary business
69 information may be disclosed:

70 1. To another governmental entity if the receiving entity
71 agrees in writing to maintain the confidential and exempt status
72 of the information and has verified in writing its legal
73 authority to maintain such confidentiality.

74 2. When relevant in any proceeding under this part. Those
75 involved in any proceeding under this section, including, but
76 not limited to, an administrative law judge, a hearing officer,
77 or a judge or justice, must maintain the confidentiality of any
78 proprietary business information revealed at such proceeding.

79 (e) This subsection is subject to the Open Government
80 Sunset Review Act in accordance with s. 119.15 and shall stand
81 repealed on October 2, 2020, unless reviewed and saved from
82 repeal through reenactment by the Legislature.

83 Section 2. The Legislature finds that it is a public
84 necessity that proprietary business information relating to
85 high-pressure well stimulations held by the Department of
86 Environmental Protection in connection with the online high-
87 pressure well stimulation chemical disclosure registry be made
88 confidential and exempt from s. 119.07(1), Florida Statutes, and
89 s. 24(a), Article I of the State Constitution. Proprietary
90 business information must be held confidential and exempt from
91 public records requirements because the disclosure of such
92 information would create an unfair competitive advantage for
93 persons receiving such information, which would adversely impact

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94 the service company, chemical supplier, or well owner or
95 operator that provides chemical ingredients for a well or wells
96 on which high-pressure well stimulations are performed. If such
97 confidential and exempt information regarding proprietary
98 business information were released pursuant to a public records
99 request, others would be allowed to take the benefit of the
100 proprietary business information without compensation or
101 reimbursement to the service company, chemical supplier, or well
102 owner or operator.

103 Section 3. This act shall take effect on the same date
104 that HB 1205 or similar legislation takes effect, if such
105 legislation is adopted in the same legislative session or an
106 extension thereof and becomes law.

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109 **T I T L E A M E N D M E N T**

110 Remove everything before the enacting clause and insert:
111 An act relating to public records; amending s. 377.45,
112 F.S.; defining the term "proprietary business information";
113 providing an exemption from public records requirements for
114 proprietary business information contained within
115 information relating to high-pressure well stimulations
116 obtained by the Department of Environmental Protection in
117 connection with the department's online high-pressure well
118 stimulation chemical disclosure registry; providing
119 procedures and requirements with respect to the granting of

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Bill No. HB 1209 (2015)

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120 confidential and exempt status; providing for disclosure
121 under specified circumstances; providing for future
122 legislative review and repeal of the exemption under the
123 Open Government Sunset Review Act; providing a statement of
124 public necessity; providing a contingent effective date.