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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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02/29/2024 10:20 AM

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Senator Harrell moved the following:

Senate Amendment (with title amendment)

Delete lines 37 - 116

and insert:

(j)1. As used in this paragraph, the term "proprietary business information" means information that:

a. Is owned or controlled by the applicant;

b. Is intended to be private and is treated by the applicant as private;

c. Has not been disclosed except as required by law or a private agreement that provides that the information will not be



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12 released to the public;

13 d. Is not readily available or ascertainable through proper
14 means from another source in the same configuration as received
15 by the collaborative;

16 e. Affects competitive interests, and the disclosure of
17 such information would impair the competitive advantage of the
18 applicant; and

19 f. Is explicitly identified or clearly marked as
20 proprietary business information.

21 2. Proprietary business information held by the department
22 or the collaborative is confidential and exempt from s.
23 119.07(1) and s. 24(a), Art. I of the State Constitution. This
24 exemption does not apply to information contained in final
25 recommendations of the collaborative.

26 3. Portions of a meeting of the collaborative during which
27 confidential and exempt proprietary business information is
28 discussed are exempt from s. 286.011 and s. 24(b), Art. I of the
29 State Constitution. The closed portion of a meeting must be
30 recorded, and the recording must be maintained by the
31 collaborative. The recording is confidential and exempt from s.
32 119.07(1) and s. 24(a), Art. I of the State Constitution.

33 4.a. Proprietary business information made confidential and
34 exempt under subparagraph 2. may be disclosed with the express
35 written consent of the applicant to whom the information
36 pertains, or the applicant's legally authorized representative,
37 or pursuant to a court order upon a showing of good cause.

38 b. Recordings of those portions of exempt meetings which
39 are made confidential and exempt under subparagraph 3. may be
40 disclosed to the department or pursuant to a court order upon a



41 showing of good cause.

42 5. This paragraph is subject to the Open Government Sunset
43 Review Act in accordance with s. 119.15 and shall stand repealed
44 on October 2, 2029, unless reviewed and saved from repeal
45 through reenactment by the Legislature.

46 Section 2. (1) The Legislature finds that it is a public
47 necessity that proprietary business information held by the
48 Department of Health or the Cancer Connect Collaborative be made
49 confidential and exempt from s. 119.07(1), Florida Statutes, and
50 s. 24(a), Article I of the State Constitution. The Legislature
51 recognizes that the public disclosure of proprietary business
52 information could injure an applicant's business interests and
53 research efforts and stifle scientific innovation. Maintaining
54 confidentiality is a hallmark of scientific peer review when
55 awarding research grants. The Legislature further finds that any
56 public benefit derived from the disclosure of such information
57 is significantly outweighed by the public and private harm that
58 could result from the disclosure of such proprietary business
59 information. Further, release of such information could impair
60 the effective and efficient administration of the grant program.

61 (2) The Legislature also finds that it is a public
62 necessity that the portions of meetings of the Cancer Connect
63 Collaborative during which confidential and exempt proprietary
64 business information is discussed be made exempt from s.
65 286.011, Florida Statutes, and s. 24(b), Article I of the State
66 Constitution. If such portions of meetings are not closed, the
67 public records exemption is negated. Furthermore, closing
68 meetings during such discussions allows for candid exchanges
69 among reviewers critiquing applications. The Legislature further



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70 finds that closing access to the portions of meetings of the
71 collaborative during which proprietary business information of
72 grant applications is discussed serves a public good by ensuring
73 that decisions are based upon merit without bias or undue
74 influence. The Legislature also finds that it is a public
75 necessity that recordings of exempt portions of meetings be made
76 confidential and exempt from s. 119.07(1), Florida Statutes, and
77 s. 24(a), Art. I of the State Constitution, because release of
78 such recordings circumvents the protections afforded by the
79 public meeting exemption.

80
81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete line 15

84 and insert:

85 collaborative to maintain such recordings; providing
86 an exemption from public records requirements for such
87 recordings; authorizing