

# FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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**BILL #:** [HB 7017](#) [PCB GOS 26-10](#)

**TITLE:** OGSR/Trade Secrets

**SPONSOR(S):** Government Operations Subcommittee,  
Sapp

**COMPANION BILL:** [SB 7026](#)

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 106 Y's 3 N's

**GOVERNOR'S ACTION:** Pending

## SUMMARY

### Effect of the Bill:

The bill saves from repeal the public record exemption for trade secrets applicable to all state and local government agencies. The public record exemption will repeal on October 2, 2026, if the bill does not become law.

### Fiscal or Economic Impact:

None.

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## ANALYSIS

### EFFECT OF THE BILL:

HB 7017 passed as [SB 7026](#).

The bill removes the scheduled repeal date, created pursuant to the [Open Government Sunset Review Act](#), for the public record exemption for [trade secrets](#) held by any agency. The public record exemption will repeal on October 2, 2026, if the bill does not become a law. (Section 1)

The bill removes duplicative public record exemptions relating to trade secrets held by certain agencies. (Multiple Sections)

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law. (Section 19)

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### [Open Government Sunset Review Act](#)

The Open Government Sunset Review Act (OGSR Act)<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

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

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

<sup>1</sup> [S. 119.15, F.S.](#)

<sup>2</sup> [S. 119.15\(3\), F.S.](#)

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- Protect trade or business secrets.<sup>3</sup>

If in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote are not required.<sup>4</sup>

### Public Record Exemption under Review

In 2021, the Legislature created a public record exemption for trade secrets held by any agency.<sup>5,6</sup> The term “[trade secret](#)” is defined to mean information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value from not being generally known to or readily ascertainable by others who could obtain economic value from its disclosure or use.
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>7</sup>

Current law authorizes an agency to disclose a trade secret to an officer or employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.<sup>8</sup> Additionally, an agency employee who, while acting in good faith and in the performance of official duties, releases a record containing a trade secret is not liable, civilly<sup>9</sup> or criminally,<sup>10</sup> for such release.<sup>11</sup>

The 2021 public necessity statement<sup>12</sup> provided that the public record exemption is necessary to protect trade secret information submitted to an agency by an individual or business, as disclosure of such information to competitors would be detrimental. The statement also specified that the exemption is necessary to protect trade secret information created by an agency in furtherance of its duties and responsibilities, as disclosure of such information would impede the effective and efficient operation of the agency.<sup>13</sup>

Pursuant to the OGSR Act, the exemption will repeal on October 2, 2026, unless reenacted by the Legislature.<sup>14</sup>

During the 2025 interim, House and Senate committee staff distributed questionnaires to state agencies, universities, public hospitals, counties, and municipalities regarding the public record exemption under review. In

<sup>3</sup> [S. 119.15\(6\)\(b\), F.S.](#)

<sup>4</sup> [Art. I, s. 24\(c\), FLA. CONST.](#)

<sup>5</sup> “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. [S. 119.011\(2\), F.S.](#)

<sup>6</sup> [Ch. 2021-223, L.O.F.](#), codified as [s. 119.0715, F.S.](#) Before the enactment of this law, trade secret exemptions were only located in program-specific provisions through the Florida Statutes. The 2021 legislation established a general exemption applicable to all agencies.

<sup>7</sup> See [s. 119.0715\(1\), F.S.](#)

<sup>8</sup> [S. 119.0715\(3\), F.S.](#)

<sup>9</sup> The Uniform Trade Secrets Act provides a cause of action for the misappropriation of trade secrets and authorizes injunctive relief and damages. A person who discloses a trade secret without authorization may be liable for both the actual loss and any unjust enrichment caused by the disclosure. See [ss. 688.003](#) and [688.004, F.S.](#)

<sup>10</sup> Current law makes it a third-degree felony to willfully and without authorization obtain or use a trade secret with intent to deprive the owner of its control or benefit, or to appropriate it for personal use or the use of another. [S. 812.081\(2\), F.S.](#) A third-degree felony is punishable by up to five years imprisonment and a \$5,000 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

<sup>11</sup> [S. 119.0715\(4\), F.S.](#)

<sup>12</sup> [Article I, s. 24\(c\), FLA CONST.](#), requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

<sup>13</sup> [Ch. 2021-223, L.O.F.](#)

<sup>14</sup> [S. 119.0715\(5\), F.S.](#)

total, staff received 154 responses.<sup>15</sup> The vast majority of respondents indicated they were unaware of any litigation concerning the exemption, had not encountered issues interpreting or applying the exemption, and recommended the exemption be reenacted as is.

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<sup>15</sup> Open Government Sunset Review Questionnaire, Trade Secrets Held by an Agency, responses on file with the Government Operations Subcommittee.