

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 7020

INTRODUCER: Agriculture Committee

SUBJECT: OGSR/Aquaculture Records Held by the Department of Agriculture and Consumer Services

DATE: January 23, 2026 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker McVaney	Becker McVaney	GO	<b>AG Submitted as Comm. Bill/Favorable</b>
2.			RC	

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## I. Summary:

SB 7020 saves from repeal the current public record exemption codified in s. 597.0042, F.S., that makes confidential and exempt from public records inspection and copying requirements certain aquaculture records held by the Department of Agriculture and Consumer Services. These confidential and exempt records include shellfish receiving and production records generated by shellfish processing facilities, audit records and supporting documentation required for submerged land leases, and aquaculture production records and receipts generated by aquaculture facilities. A record may be disclosed to another governmental entity in the performance of its duties and responsibilities. This exemption applies to aquaculture records held before, on, or after July 1, 2021.

The exemption is subject to the Open Government Sunset Review Act. Unless this exemption is saved from repeal by the Legislature, it will repeal on October 2, 2026. This bill removes the scheduled repeal to maintain the confidential and exempt status of the information.

The bill is not expected to impact state and local revenue and expenditures.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Access to Public Records - Generally

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The applies to the official business

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

### **Executive Agency Records – The Public Records Act**

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

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<sup>2</sup> *Id.*; see *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2 (2022-2024).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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, for the purposes of this chapter, 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.”

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup> A bill enacting an exemption may not contain other substantive provisions<sup>11</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>12</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>13</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>14</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>15</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>16</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>17</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>18</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>19</sup> public records or open meetings exemptions, with specified exceptions.<sup>20</sup> The Act requires the repeal of such exemption on October 2 of the fifth year after its creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>21</sup> In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>12</sup> FLA. CONST. art. I, s. 24(c).

<sup>13</sup> See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>14</sup> See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>15</sup> *WFTV, Inc. v. Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>16</sup> *Id.*

<sup>17</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>18</sup> Section 119.15, F.S.

<sup>19</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>20</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>21</sup> Section 119.15(3), F.S.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.<sup>22</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>23</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>24</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption, and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>25</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>26</sup> or
- It protects trade or business secrets.<sup>27</sup>

The Act also requires specified questions to be considered during the review process.<sup>28</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

### **Aquaculture Records Held by the Department of Agriculture and Consumer Services**

The Department of Agriculture and Consumer Services (department) is Florida's lead aquaculture agency.<sup>29</sup> The department coordinates and assists in the development of aquaculture and regulates aquafarms to protect and conserve Florida's natural resources. There are an estimated 1,500 species or varieties of fish, plants, mollusks, crustaceans, and reptiles grown in the state.<sup>30</sup>

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<sup>22</sup> See generally s. 119.15, F.S.

<sup>23</sup> Section 119.15(7), F.S.

<sup>24</sup> Section 119.15(6)(b), F.S.

<sup>25</sup> Section 119.15(6)(b)1., F.S.

<sup>26</sup> Section 119.15(6)(b)2., F.S.

<sup>27</sup> Section 119.15(6)(b)3., F.S.

<sup>28</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>29</sup> See s. 597.002, F.S.

<sup>30</sup> Florida Department of Agriculture and Consumer Services, *Division of Aquaculture*, <https://www.fdacs.gov/Divisions-Offices/Aquaculture> (Last visited Jan. 19, 2026).

Aquaculture producers are required to provide the department with receiving logs, production volume records, inventories, and receipts and invoices related to their aquaculture facilities to ensure compliance with the terms and conditions of sovereign submerged land lease agreements and aquaculture best management practices. These records include information, such as quantity and price of seed stock purchased and harvest times which, if released, could be detrimental to their businesses. Information regarding products, harvest times, and locations make aquaculture businesses susceptible to theft, particularly with respect to sovereign submerged land leases in remote locations.

In 2021, the Legislature created a public records exemption for certain aquaculture records held by the department.<sup>31</sup> The public necessity statement provided that certain production records related to aquaculture and shellfish facilities held by the department are exempt from Florida's public records laws. Without this exemption, the department may be hindered from obtaining valuable and accurate information. With this exemption, the department can protect the aquaculture industry and its facilities while maintaining compliance with federal partners and documenting the compliance of aquaculture producers with statutory requirements.

Since 2021, the department has received three public records requests for information deemed confidential and exempt under s. 597.0042, F.S.<sup>32</sup> Senate and House staff met with department staff in 2025 to discuss the public record exemption and department staff indicated no knowledge of litigation regarding the exemption or any concerns with applying the exemption. Department staff recommended the exemption be reenacted.

### **III. Effect of Proposed Changes:**

The bill removes the scheduled repeal of the current public record exemption for certain aquaculture records held by the department and thus maintains the following records as confidential and exempt from public records inspection and copying requirements:

- Shellfish receiving and production records generated by shellfish processing facilities,
- Audit records and supporting documentation required for submerged land leases, and
- Aquaculture production records and receipts generated by aquaculture facilities.

A record may be disclosed to another governmental entity in the performance of its duties and responsibilities. This exemption applies to aquaculture records held before, on, or after July 1, 2021.

The bill takes effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities

<sup>31</sup> Ch. 2021-59, Laws of Fla.

<sup>32</sup> Email on file with Senate Agriculture Committee.

have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

**B. Public Records/Open Meetings Issues:**

**Vote Requirement**

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records disclosure requirements. This bill does not create or expand an exemption, and thus, the bill does not require a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records disclosure requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption, and thus, a statement of public necessity is not required.

**Breadth of Exemption**

Article I, section 24(c) of the State Constitution requires an exemption to the public records disclosure requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The private sector will be subject to the cost associated with an agency making redactions in response to a public records request.

**C. Government Sector Impact:**

The department will continue to incur additional workload relating to the redaction of confidential and exempt records. The bill is not expected to impact state and local government revenues and expenditures.

**VI. Technical Deficiencies:**

None identified.

**VII. Related Issues:**

None identified.

**VIII. Statutes Affected:**

This bill substantially amends section 597.0042 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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