

## Committee Substitute for Senate Bill No. 904

An act relating to public records and meetings; providing an exemption from the public records law for certain records relating to supplemental drug rebates; providing an exemption from the public meetings law for certain portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. (1) Trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in records of the Agency for Health Care Administration and its agents with respect to supplemental rebate negotiations and which are prepared pursuant to a supplemental rebate agreement under section 409.91195, Florida Statutes, are confidential and exempt from section 119.07, Florida Statutes, and Section 24(a) of Article I of the State Constitution.

(2) Those portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates are disclosed for discussion or negotiation of a supplemental rebate agreement under section 409.91195, Florida Statutes, are exempt from section 286.011, Florida Statutes, and Section 24(b) of Article I of the State Constitution.

Section 2. The Legislature finds that it is a public necessity that trade secrets, rebate amount, percent of rebate, manufacturer's pricing, supplemental rebates that are contained in records, as well as meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which this information is negotiated or discussed, pursuant to a supplemental rebate agreement under section 409.91195, Florida Statutes, are confidential and exempt from sections 119.07 and 286.011, Florida Statutes, and Section 24(a) and (b) of Article I of the State Constitution. Information pertaining to similar agreements negotiated by pharmaceutical manufacturers and the Federal Government is confidential under 42 U.S.C. s. 1396r-8. A supplemental rebate as a percentage of average manufacture price is confidential under federal law and the federal rebate could be made known if not protected in Florida. Because of the protection afforded by federal law, if this information is not protected in Florida, manufacturers would not be willing to offer a rebate in Florida. Further, the Legislature finds that the number and value of supplemental rebates obtained by the agency will increase, to the benefit of Medicaid recipients, if information related to state supplemental rebates is protected in the records received by the agency and if the meetings at which this information is discussed or negotiated are closed because manufacturers will be assured that they will not be placed at a competitive disadvantage by the exposure of this information. As a result, the agency and pharmaceutical manufacturers will have frank and open

communication regarding rebates, causing the number of rebates to increase, thereby benefiting Medicaid recipients and the public.

Section 3. Section (1) of this act is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. This act shall take effect on the same date that Committee Substitute for Senate Bill 792, or similar legislation authorizing the Agency for Health Care Administration to negotiate supplemental drug rebates for the Medicaid program, takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

Approved by the Governor June 13, 2001.

Filed in Office Secretary of State June 13, 2001.