

CHAPTER 2021-270

Senate Bill No. 6-A

An act relating to public records and public meetings; creating s. 16.716, F.S.; specifying that any exempt or confidential and exempt information obtained by the Florida Gaming Control Commission retains its exempt or confidential and exempt status; providing an exemption from public meetings requirements for portions of meetings of the commission wherein exempt or confidential and exempt information is discussed, provided certain requirements are met; providing an exemption from public records requirements for recordings, minutes, and records generated during such exempt portions of meetings; providing for the future review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 16.716, Florida Statutes, is created to read:

16.716 Florida Gaming Control Commission public records and public meetings exemptions.—

(1)(a) Any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission, upon written request, to an agency, as defined in s. 119.011, or a governmental entity in the performance of the commission's official duties and responsibilities. An agency or a governmental entity receiving such information from the commission shall maintain the exempt or confidential and exempt status of the information.

(b)1. Any portion of a meeting of the commission during which information that is exempt or confidential and exempt is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

a. The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

b. The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a record that shall be a public record and shall be filed with the official records of the commission.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion

of the session may be off the record. Such recording shall be maintained by the commission.

2. Only members of the commission, Department of Legal Affairs staff, or commission staff supporting the commission's function and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information shall be allowed to attend the exempted portions of the commission meetings. The commission shall ensure that any closure of its meetings as authorized by this paragraph is limited so that the general policy of this state in favor of public meetings is maintained.

3. A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the information is no longer exempt or confidential and exempt.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, maintains its status as exempt or confidential and exempt. In the absence of this public records exemption, sensitive confidential or exempt information, including criminal intelligence information and criminal investigative information, would be disclosed, thus eliminating the protected status of the information obtained by the commission. If the commission is unable to maintain the exempt or confidential and exempt status of the information received, the commission would be unable to effectively and efficiently perform its duties and responsibilities. In addition, the Legislature finds that it is a public necessity that any portion of a meeting of the Florida Gaming Control Commission wherein exempt or confidential and exempt information is discussed be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. The release of exempt or confidential and exempt information via a public meeting defeats the purpose of the public records exemption. If such information were part of an active investigation, the release of such information before its completion could jeopardize the ongoing investigation. Furthermore, the Legislature finds that it is a public necessity that the recording of, and any minutes and records generated during, that portion of a commission meeting that is closed to the public be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, until such time as the information is no longer exempt or confidential and exempt. This limited public records exemption ensures that the information discussed during the closed meeting remains protected while also allowing the commission to perform its statutory duties and responsibilities.

Section 3. This act shall take effect on the same date that SB 4A or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 25, 2021.

Filed in Office Secretary of State May 25, 2021.