

CHAPTER 2024-248

Senate Bill No. 7078

An act relating to public records and meetings; amending s. 381.915, F.S.; defining the term “proprietary business information”; providing an exemption from public records requirements for proprietary business information included in cancer research grant applications submitted to the Cancer Connect Collaborative and records generated by the collaborative relating to the review of such information; providing an exemption from public meeting requirements for portions of collaborative meetings during which such proprietary business information is discussed; requiring that the closed portions of meetings be recorded; requiring the collaborative to maintain such recordings; providing an exemption from public records requirements for such recordings; authorizing the disclosure of such confidential and exempt information under certain circumstances; providing for legislative review and repeal of the exemptions; providing statements of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (j) is added to subsection (8) of section 381.915, Florida Statutes, as amended by SB 7072, 2024 Regular Session, to read:

381.915 Casey DeSantis Cancer Research Program.—

(8) The Cancer Connect Collaborative, a council as defined in s. 20.03, is created within the department to advise the department and the Legislature on developing a holistic approach to the state’s efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The collaborative may make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

(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 released to the public;
- d. Is not readily available or ascertainable through proper means from another source in the same configuration as received by the collaborative;

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

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

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

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

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

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

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

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

(2) The Legislature also finds that it is a public necessity that the portions of meetings of the Cancer Connect Collaborative during which confidential and exempt proprietary business information is discussed be

made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. If such portions of meetings are not closed, the public records exemption is negated. Furthermore, closing meetings during such discussions allows for candid exchanges among reviewers critiquing applications. The Legislature further finds that closing access to the portions of meetings of the collaborative during which proprietary business information of grant applications is discussed serves a public good by ensuring that decisions are based upon merit without bias or undue influence. The Legislature also finds that it is a public necessity that recordings of exempt portions of meetings be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, because release of such recordings circumvents the protections afforded by the public meeting exemption.

Section 3. This act shall take effect on the same date that SB 7072 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 June 18, 2024.

Filed in Office Secretary of State June 18, 2024.