

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.)

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

BILL: SB 7010

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: OGSR/Space Florida

DATE: March 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Stallard</u>	<u>Caldwell</u>		MS Submitted as Committee Bill
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Pre-meeting
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 7010 saves from repeal a public records exemption and a public meetings exemption for trade secrets. Section 331.326, F.S., provides that any information held by Space Florida, which is a trade secret, as defined in s. 812.081, F.S., is confidential and exempt from public records disclosure requirements and may not be disclosed. The section also provides that any meeting or portion of a meeting of Space Florida's board is exempt from open meetings and public records disclosure requirements if the board is discussing trade secrets. Any public records generated as a result of the closed portions of such meetings are also confidential and exempt from public records disclosure requirements.

Section 331.326, F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment. This bill removes the scheduled repeal of the exemptions.

The original public necessity statement provides that it is a public necessity that financial information comprising a trade secret as defined in s. 812.081, F.S., be made exempt or confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Article I of the Florida Constitution. The statement also provides that it is a public necessity that any portion of a meeting in which a trade secret as defined in s. 812.081, F.S., is discussed be made exempt from s. 286.011, F.S., and s. 24(b), Article I of the Florida Constitution. Justification for the public records exemptions has not changed. Because the bill does not expand the public records exemption or the open meetings exemptions, the bill does not require a two-thirds vote of each house in order to pass.

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

The bill takes effect October 1, 2021.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business 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.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ Section 119.011(12), F.S., defines “public record” to mean “all 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.” 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must state with specificity the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating or expanding a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹⁴ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

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.¹⁹ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question carefully the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁵

Space Florida

Space Florida was created as an independent special district,²⁶ a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state. The purpose of Space Florida is to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.²⁷ To accomplish its purpose, Space Florida advises, coordinates, cooperates, and, when necessary, enters into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.²⁸ Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; and undertake joint financing with municipalities or private sector entities for any project.²⁹

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ 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?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Part III, Chapter 189, F.S.

²⁷ Section 331.302(1), F.S.

²⁸ Section 331.302(2), F.S. Space Florida is not an agency as defined in ss. 216.011 and 287.012, F.S. Space Florida is subject to applicable provisions of the Uniform Special District Accountability Act. Section 331.302(4) and (5), F.S.

²⁹ Section 331.305, F.S.

Space Florida is governed by a 13-member independent board of directors that consists of members appointed by the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the board of directors of Enterprise Florida, Inc.³⁰ The Governor serves as the chair and a voting member of the board.³¹

Public Records Exemptions for Trade Secrets

The records of Space Florida are public records subject to ch. 119, F.S., the Public Records Act,³² and, as such, are generally open for personal inspection and copying by any person.³³ However, similar to many government offices that maintain confidential business information records resulting from interactions with private entities, Space Florida's records contain trade secrets that are exempt from public disclosure. Florida law contains a variety of provisions making trade secret information exempt or confidential and exempt from public records requirements. Space Florida relies on ss. 288.075 and 331.326, F.S., for exemptions from public records requirements for trade secrets. Both sections provide exemptions, but each uses a different definition of "trade secret." As well, s. 331.326, F.S., provides an exemption from open meetings requirements³⁴ when Space Florida's board is discussing trade secrets.

Section 288.075, F.S., addresses generally the confidentiality of records maintained by government economic development agencies. The section defines Space Florida as an economic development agency³⁵ and provides that trade secrets held by an economic development agency are confidential and exempt from s. 119.07(1), F.S., and section 24(a), Article I of the Florida Constitution (public records requirements).³⁶ Section 288.075, F.S., defines a trade secret as having the same meaning as provided in the Uniform Trade Secrets Act in s. 688.002(4), F.S.³⁷ An employee of an economic development agency who violates the confidentiality and exemption requirements for trade secrets commits a misdemeanor of the second degree.³⁸

Section 331.326, F.S., is in part II of ch. 331, which creates and governs Space Florida. The section provides that any information held by Space Florida which is a trade secret, as defined in the chapter on theft crimes in s. 812.081(1)(c), F.S., including trade secrets of Space Florida, any spaceport user, or the space industry business, is confidential and exempt from the requirements of s. 119.07(1), F.S., and section 24(a), Article I of the Florida Constitution and may not be

³⁰ Section 331.3081, F.S.

³¹ According to the Space Florida website, the following are members of the board: Lieutenant Governor Jeanette Nunez; Jay Beyrouti, President, Monicarla, Ltd.; Jesse Biter, President and CEO, Biter Enterprises, LLC; Dean Cannon, President and CEO, Gray Robinson; Gregory Celestan, Chairman and CEO, Celestar Corporation; Daniel Davis, President and CEO, Jax Chamber; Sonya Deen, Vice President of Government Relations, JM Family Enterprises, Inc.; Barbara Essenwine, Above and Beyond Group; Mori Hosseini, Chairman and CEO, ICI Homes; Kenneth Kahn, President, LRP Media; Belinda Keiser, Vice Chancellor of Community Relations and Student Advancement, Keiser University; and Katherine San Pedro, Partner, Ballard Partners, Inc. Available at <https://www.spaceflorida.gov/about/board-of-directors/> (Last visited on December 3, 2020.)

³² Section 331.326, F.S.

³³ Section 119.01(1), F.S.

³⁴ FLA. CONST., art. I, s. 24(b); s. 286.011, F.S.

³⁵ Section 288.075(1)(a)3., F.S.

³⁶ Section 288.075(3), F.S.

³⁷ Section 288.075(1)(c), F.S.

³⁸ Section 288.075(7), F.S.

disclosed.³⁹ The section further provides that any meeting or portion of a meeting of Space Florida's board is exempt from the open meetings requirements of s. 286.011, F.S., and section 24(b), Article I of the Florida Constitution if the board is discussing trade secrets. As well, any public record generated during the closed portions of the meetings, such as minutes, tape recordings, and notes, is confidential and exempt from s. 119.07(1) and section 24(a), Article I of the Florida Constitution.⁴⁰

In 2016, the definition of trade secret in s. 812.081, F.S., was expanded to include financial information.⁴¹ Because of the cross-reference in s. 331.326, F.S., to s. 812.081, F.S., the Legislature also reenacted s. 331.326, F.S., that same year in order to conform the section's public records and open meetings exemptions to the newly expanded definition of "trade secret" in s. 812.081, F.S. The reenactment of the section expanded the public records and public meetings exemptions for Space Florida because the trade secret exemptions in the section were expanded by adding financial information to the definition of trade secret.⁴² The reenactment of s. 331.326, F.S., with the added language to the section subjected it to the Act⁴³ and repeal of the section on October 2, 2021, unless it is reviewed and saved from repeal through reenactment by the Legislature. The bill⁴⁴ reenacting s. 331.326, F.S., (among other sections) also provided a public necessity statement as required by the Florida Constitution.

The public necessity statement articulates as justification for the exemptions that the disclosure of businesses' financial information comprising a trade secret as defined in s. 812.081, F.S., would be detrimental to those businesses. Specifically, the public necessity statement provided:

[t]he Legislature recognizes that, in many instances, businesses are required to provide financial information for regulatory or other purposes to public entities and that disclosure of such information to competitors of those businesses would be detrimental to the businesses. The Legislature's intent is to protect trade secret information of a confidential nature which includes, but is not limited to, a formula, a pattern, a device, a combination of devices, or a compilation of information used to protect or further a business advantage over those who do not know or use the information, the disclosure of which would injure the affected business in the marketplace. Therefore, the Legislature finds that the need to protect trade secret financial information is sufficiently compelling to override this state's public policy of open government and that the protection of such information cannot be accomplished without these exemptions.⁴⁵

³⁹ Section 331.326, F.S.

⁴⁰ *Id.*

⁴¹ Section 1, ch. 2016-5, Laws of Florida; CS/SB 180 (2016).

⁴² Section 286.011, F.S. and FLA. CONST. art. 1, s. 24(b).

⁴³ Section 119.15, F.S.

⁴⁴ CS/CS/SB 182 (2016).

⁴⁵ Section 21, ch. 2016-6, Laws of Florida.

Trade Secrets

Section 288.075, F.S., providing for the confidentiality of trade secrets, relies on the definition of “trade secret” found in the Uniform Trade Secrets Act in s. 688.002(4), F.S., which defines the term as:

information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.⁴⁶

This definition of “trade secret” does not expressly include financial information.

Section 331.326, F.S., providing for the confidentiality of trade secrets, relies on the definition of “trade secret” found in s. 812.081, F.S. This definition was amended in 2016 to include financial information, which because of the cross-reference in s. 331.326, F.S., necessitated the reenactment of s. 331.326, F.S., to conform it to the newly amended definition of trade secret in s. 812.081, F.S.

“Trade secret,” as defined in s. 812.081(1)(c), F.S., of Chapter 812, F.S., pertaining to theft crimes, means:

the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.⁴⁷

⁴⁶ Section 688.002(4), F.S.

⁴⁷ Section 812.081(1)(c), F.S.

Courts have used this last factor to determine whether a document is a trade secret subject to protection from public records disclosure laws. In *Sevro v. Department of Environmental Protection*,⁴⁸ the court held that a document was subject to disclosure because the business had failed to actively protect or hold out the document as a trade secret.

Open Government Sunset Review

Review of Public Records and Open Meetings Exemptions in Section 331.326, F.S.

During the 2020 interim, Senate and House staff met with staff of Space Florida to discuss the experience the agency has had with trade secret information exemptions in s. 331.326, F.S.⁴⁹ As reported by Space Florida staff, although a small number of public requests for information are regularly received by the agency, only one or two requests a year have required Space Florida to redact or otherwise remove trade secret information in making records available. In addition, staff reported that there have been no challenges of trade secret exemption decisions made by Space Florida, nor have meetings of Space Florida's board necessitated closure because of the discussion of trade secret information.

Space Florida does not have rules or an internal procedure or process for identifying exempted trade secret information or for removing that information from records it makes available to the public. The agency follows statutory language to ensure trade secret information it holds remains exempt from public disclosure. Staff of Space Florida made no report of having received any complaints regarding public record or open meetings exemptions for trade secret information.⁵⁰

Other Exemptions

Part of an Open Government Sunset Review requires a review of other exemptions that may protect the same public records or meeting, and consideration of whether multiple exemptions may be merged. The repeal of s. 331.326, F.S., will eliminate the specific trade secret exemption from part II of ch. 331, which governs Space Florida. The remaining trade secret exemption applicable to records held by Space Florida, s. 288.075, F.S., uses the definition of trade secret in s. 688.002, F.S. Although there are similarities between that definition and the definition of trade secret in s. 812.081, F.S. (which contains the definition of trade secret that s. 331.326, F.S., incorporates), there are differences between the two that are not insignificant.

Section 688.002, F.S., limits the term's applicability to information from which independent economic value is derived. Section 812.081, F.S., on the other hand, couches the definition in terms of the operation of a business, defining trade secret as "... information ... which provides the business an advantage ...". As defined in s. 812.081, F.S., the term also specifically includes financial information, which is not part of the definition in s. 688.002, F.S.

Repeal of s. 331.326, F.S., will eliminate the open meeting exemption if the board were discussing trade secrets. This exemption is not provided for elsewhere in statute. While it can be argued that financial information, independent of its inclusion in a definition of trade secret, is

⁴⁸ 839 So. 2d 781 (Fla. 1st DCA 2003).

⁴⁹ A meeting took place on August 6, 2020 with follow-up emails on August 21 and August 25, 2020 (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

⁵⁰ *Id.*

confidential and exempt pursuant to s. 288.075, F.S., if held by Space Florida, such confidentiality and exemption may depend on a request in writing by the owner of the information and may expire one year after the request.⁵¹

Section 288.075, F.S., governs not just Space Florida, but other economic development agencies, as well, so consideration is not given to its amendment or merger to eliminate duplication of exemptions. Because of the distinction in the definitions of trade secret between s. 812.081, F.S., and s. 688.002, F.S., and because a repeal of s. 331.326, F.S., would remove the open meeting exemption for trade secrets, the information in and application of the public records and open meetings exemptions in s. 331.326, F.S., are not duplicated elsewhere in law, nor can they be merged with another exemption.

Recommendation on Exemptions

Legislative staff sought the input of Space Florida regarding the repeal of s. 331.326, F.S. Representatives of the agency responded that they would prefer that the statute not be repealed. They asserted that, given the competitiveness of the space industry, the ability to close a portion of a public meeting when the board is discussing trade secrets is a very important tool.⁵²

Space Florida would like to continue to use public records and open meetings exemptions that are informed by the definitions of trade secret in both s. 812.081, F.S., and s. 688.002, F.S. Representatives of the agency expressed the need for Space Florida to be able to provide assurances to potential and existing space industry customers that their trade secrets are protected to the greatest extent possible in the event of misappropriation. In addition, although a cross-reference to a definition does not create a cause of action, representatives of Space Florida assert that it is important for the agency to be able to use the definitions, penalties, and remedies afforded under both definitional sections.⁵³

III. Effect of Proposed Changes:

The bill amends s. 331.326, F.S., to save from repeal the current public records exemption and open meetings exemption. This allows the affected information to continue to be confidential and exempt and the portion of meetings relating to the Space Florida board discussing trade secrets to continue to be exempt.

Section 331.326, F.S., provides that any information held by Space Florida which is a trade secret, as defined in s. 812.081, F.S., is confidential and exempt from public records requirements and may not be disclosed. The section also provides that any meeting or portion of a meeting of Space Florida's board is exempt from open meetings and public records requirements when the board is discussing trade secrets and that any public record generated during the closed portions of such meetings is also confidential and exempt from public records requirements.

⁵¹ Sections 288.075(2) and (4), F.S. Attorney General Opinion 2004-19 states “[d]evelopment plans, financial records, financial commitment letters and draft memoranda of understanding between the city and a developer regarding a redevelopment project appear to come within the scope of this exemption.”

⁵² Emails on August 21 and August 25, 2020 from Space Florida to legislative staff (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

⁵³ *Id.*

Section 331.326, F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment or reenactment and removal of the sunset provisions by the Legislature.

The original public necessity statement provided that it is a public necessity that financial information comprising a trade secret as defined in s. 812.081, F.S., be made exempt or confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Article I of the Florida Constitution. The statement also provides that it is a public necessity that any portion of a meeting in which a trade secret as defined in s. 812.081, F.S., is discussed, be made exempt from s. 286.011, F.S., and s. 24(b), Article I of the Florida Constitution. Justification for the public records bill has not changed.

Because the bill does not expand the public records exemption or the open meetings exemption, the bill does not require a two-thirds vote of each house in order to pass.

The bill takes effect October 1, 2021.

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 have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 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 requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

The purpose of the law is to protect trade secret information of a confidential nature. This bill exempts only information held by Space Florida which is a trade secret, as defined in s. 812.081, F.S., from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

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 identified.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with Space Florida making redactions in response to a public record request.

Businesses who submit trade secret information that falls within the definition contained in s. 812.081, F.S., to Space Florida will continue to receive protection of that information from disclosure to competing businesses. This may result in encouraging more private sector businesses to compete for contracts with Space Florida.

C. Government Sector Impact:

Space Florida will continue to incur costs relating to the redaction of exempt records.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 331.326 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

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