

1                   A bill to be entitled  
2           An act relating to public meetings and public records;  
3           amending s. 381.02033, F.S.; exempting from public  
4           meeting requirements specified portions of meetings of  
5           the Prescription Drug Affordability Commission;  
6           exempting from public records requirements specified  
7           records, transcripts, and information; requiring the  
8           commission to establish certain parameters; providing  
9           for future legislative review and repeal of the  
10          exemptions; providing statements of public necessity;  
11          providing a contingent effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:  
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15           Section 1. Paragraph (c) of subsection (3) and subsection  
16           (9) of section 381.02033, Florida Statutes, as created by HB  
17           1293, 2020 Regular Session, are amended to read:

18           381.02033 Prescription Drug Affordability Commission.—

19           (3) MEETINGS OF THE COMMISSION.—The commission shall meet  
20           in a location readily accessible to the public at least every 6  
21           weeks to review prescription drug price notices submitted under  
22           subsection (4). A meeting may be cancelled or postponed at the  
23           discretion of the chair if there is no pending decision.

24           (c) The commission may allow expert testimony at a public  
25           meeting.

26 |        1. Any decision that the commission makes must be done in  
 27 | a public meeting, including, but not limited to, the following  
 28 | decisions:

29 |        ~~a.1.~~ Reviewing a prescription drug cost analysis.

30 |        ~~b.2.~~ Voting on whether to impose a cost or payment limit  
 31 | on payors for a prescription drug.

32 |        2.a. However, any portion of a meeting in which  
 33 | prescription drug information that the commission designates a  
 34 | trade secret is discussed is exempt from s. 286.011 and s.  
 35 | 24(b), Art. I of the State Constitution. Any records generated  
 36 | by such portion of a meeting, except the final recommendations  
 37 | or votes, are confidential and exempt from s. 119.07(1) and s.  
 38 | 24(a), Art. I of the State Constitution. The commission shall  
 39 | establish parameters for what is designated a trade secret,  
 40 | including, but not limited to, specific consideration for  
 41 | information submitted relating to a prescription drug not yet  
 42 | available in the market.

43 |        b. This subparagraph is subject to the Open Government  
 44 | Sunset Review Act in accordance with s. 119.15 and shall stand  
 45 | repealed on October 2, 2025, unless reviewed and saved from  
 46 | repeal through reenactment by the Legislature.

47 |        (9) PUBLIC ACCESS TO INFORMATION.—

48 |        (a) Information relating to a prescription drug price  
 49 | notice submitted by a prescription drug manufacturer to the  
 50 | commission or relating to a prescription drug cost review is

51 available to the public.

52 (b) However, any information relating to a prescription  
53 drug price notice submitted by a prescription drug manufacturer  
54 or relating to a prescription drug cost review that is  
55 designated by the commission as a trade secret is confidential  
56 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
57 Constitution. This paragraph is subject to the Open Government  
58 Sunset Review Act in accordance with s. 119.15 and shall stand  
59 repealed October 2, 2025, unless reviewed and saved from repeal  
60 through reenactment by the Legislature.

61 Section 2. (1) The Legislature finds that it is a public  
62 necessity that a trade secret, as defined in s. 688.002, Florida  
63 Statutes, that is used in manufacturing a prescription drug and  
64 that is provided in a prescription drug price notice by a  
65 manufacturer to the Prescription Drug Affordability Commission,  
66 established in s. 381.02033, Florida Statutes, be made  
67 confidential and exempt from public meeting and public records  
68 requirements.

69 (2) In general, a prescription drug manufacturer invests  
70 substantial economic resources in chemically developing a  
71 prescription drug. Disclosing a prescription drug trade secret  
72 would allow competitor companies to gain an unfair competitive  
73 advantage, thereby negatively impacting the business interest of  
74 the prescription drug manufacturer. Even though reliable  
75 reporting of prescription drug pricing models and price

76 increases is necessary to ensure that prices and price changes  
77 for prescription drugs meet the commission's determination that  
78 such prices are affordable to consumers, the goal of  
79 prescription drug affordability is best served by encouraging  
80 prescription drug manufacturers to submit pricing models and  
81 price increases to the commission for review without concern  
82 that trade secrets will be disclosed through public meetings or  
83 public records requests.

84 (3) The release of a prescription drug trade secret via a  
85 public meeting would allow competitors and other persons who  
86 attend those meetings to discover the protected trade secrets.  
87 Likewise, a release of the records generated during those  
88 portions of a meeting at which trade secrets are discussed would  
89 compromise such proprietary information.

90 (4) Therefore, the Legislature finds that it is a public  
91 necessity to make any portion of a meeting in which a  
92 prescription drug trade secret is discussed exempt from public  
93 meeting requirements and to make records and transcripts thereof  
94 exempt from public records requirements. The Legislature also  
95 finds that it is a public necessity to make any information  
96 relating to a prescription drug price notice submitted by a  
97 prescription drug manufacturer or relating to a prescription  
98 drug cost review that is designated by the commission as a trade  
99 secret confidential and exempt from public records requirements.

100 Section 3. This act shall take effect on the same date

HB 1295

2020

101 | that HB 1293 or similar legislation takes effect, if such  
102 | legislation is adopted in the same legislative session or an  
103 | extension thereof and becomes a law.