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**State Government & Tribal Relations  
Committee**

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**SB 5303**

**Brief Description:** Exempting United States food and drug administration nonpublic information from disclosure under the state public disclosure act.

**Sponsors:** Senator Hunt; by request of Department of Health.

**Brief Summary of Bill**

- Exempts from disclosure certain information or records obtained by the Department of Health from the federal Food and Drug Administration, such as trade secrets and confidential commercial information, to the extent they are exempt from disclosure under federal law.

**Hearing Date:** 3/10/21

**Staff:** Jason Zolle (786-7124).

**Background:**

The Public Records Act.

The Public Records Act (PRA) generally requires state and local governmental entities to make many government records available to the public upon request. There are, however, over 500 statutory exemptions for certain records or information contained in records, including:

- certain trade secrets and proprietary data; and
- specific information compiled by law enforcement, when nondisclosure is essential to certain objectives.

The Freedom of Information Act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The Freedom of Information Act (FOIA) is a federal law that similarly provides for the disclosure of information and documents controlled by the United States government. The FOIA also contains a number of exemptions to disclosure, including:

- trade secrets and commercial or financial information that is privileged or confidential; and
- records compiled for law enforcement purposes, subject to certain conditions.

Prior Legislation.

In 2019 the Legislature prohibited the disclosure of certain records and information, including trade secrets and confidential commercial information, that are obtained by the state Department of Agriculture from the federal Food and Drug Administration (FDA) pursuant to a contract or commissioning agreement, to the extent that the information or records is exempt from disclosure under the FOIA.

**Summary of Bill:**

To the extent that they are exempt from disclosure under FOIA, the following information or records obtained by public health laboratories within the Department of Health from the FDA pursuant to a contract to obtain funding for monitoring food supplies for harmful contaminants are exempt from public disclosure under the PRA:

- trade secrets;
- confidential commercial information;
- information protected by the federal deliberative process privilege;
- information compiled for law enforcement purposes; and
- information expressly required to be kept confidential by other federal laws.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.