

1                                   A bill to be entitled  
 2           An act relating to public meetings; amending s.  
 3           1004.28, F.S.; providing an exemption from public  
 4           meeting requirements for any portion of a meeting of  
 5           the board of directors of a university direct-support  
 6           organization, or of the executive committee or other  
 7           committees of such board, at which the identity of a  
 8           donor or prospective donor, any proposal seeking  
 9           research funding from the organization, or a plan or  
 10          program for either initiating or supporting research is  
 11          discussed; providing for review and repeal of the  
 12          exemption; providing a statement of public necessity;  
 13          providing an effective date.

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

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 17           Section 1. Subsection (5) of section 1004.28, Florida  
 18           Statutes, is amended to read:

19           1004.28 Direct-support organizations; use of property;  
 20           board of directors; activities; audit; facilities.—

21           (5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC  
 22           MEETINGS EXEMPTION.—

23           (a) Each direct-support organization shall provide for an  
 24           annual financial audit of its accounts and records to be  
 25           conducted by an independent certified public accountant in  
 26           accordance with rules adopted by the Auditor General pursuant to  
 27           s. 11.45(8) and by the university board of trustees. The annual  
 28           audit report shall be submitted, within 9 months after the end

29 of the fiscal year, to the Auditor General and the Board of  
30 Governors for review. The Board of Governors, the university  
31 board of trustees, the Auditor General, and the Office of  
32 Program Policy Analysis and Government Accountability shall have  
33 the authority to require and receive from the organization or  
34 from its independent auditor any records relative to the  
35 operation of the organization. The identity of donors who desire  
36 to remain anonymous shall be protected, and that anonymity shall  
37 be maintained in the auditor's report.

38 (b) All records of the organization other than the  
39 auditor's report, management letter, and any supplemental data  
40 requested by the Board of Governors, the university board of  
41 trustees, the Auditor General, and the Office of Program Policy  
42 Analysis and Government Accountability shall be confidential and  
43 exempt from ~~the provisions of~~ s. 119.07(1).

44 (c) Any portion of a meeting of the board of directors of  
45 the organization, or of the executive committee or other  
46 committees of such board, at which the identity of a donor or  
47 prospective donor, any proposal seeking research funding from the  
48 organization, or a plan or program for either initiating or  
49 supporting research is discussed is exempt from s. 286.011 and s.  
50 24(b), Art. I of the State Constitution. This paragraph is subject  
51 to the Open Government Sunset Review Act in accordance with s.  
52 119.15 and shall stand repealed on October 2, 2018, unless  
53 reviewed and saved from repeal through reenactment by the  
54 Legislature.

55 Section 2. The Legislature finds that it is a public  
56 necessity that meetings of the board of directors of a direct-

57 | support organization established under s. 1004.28, or of the  
58 | executive committee or other committees of such board, at which  
59 | the identity of a donor or prospective donor, any proposal  
60 | seeking research funding from the organization, or a plan or  
61 | program for either initiating or supporting research is discussed  
62 | should be held exempt from s. 286.011, Florida Statutes, and s.  
63 | 24(b), Art. I of the State Constitution. For the benefit of our  
64 | state universities, and ultimately all the people of Florida,  
65 | direct-support organizations serve a vital role in raising  
66 | donations from private sources. This undertaking demands great  
67 | sensitivity and discretion, as donors frequently seek anonymity  
68 | and are concerned about the potential release of sensitive  
69 | financial information. If direct-support organizations cannot  
70 | honor those requests and protect such information from public  
71 | disclosure, potential donors may decline to contribute, thus  
72 | hampering the ability of the direct-support organization to carry  
73 | out its activities. The state has recognized these realities by  
74 | making most of the records of direct-support organizations  
75 | confidential and exempt from the state's public records  
76 | requirements, including the identity of donors and prospective  
77 | donors. However, without the exemption from public meeting  
78 | requirements, release of the identity of donors or prospective  
79 | donors via a public meeting would defeat the purpose of the  
80 | public records exemption. It is therefore the finding of the  
81 | Legislature that the exemption from public meeting requirements  
82 | is a public necessity. Additionally, the resources raised by  
83 | direct-support organizations are frequently used to initiate,  
84 | develop, and fund plans and programs for research that routinely

85 contain sensitive proprietary information, including university-  
86 connected research projects, which provide valuable  
87 opportunities for faculty and students and may lead to future  
88 commercial applications. This activity requires the direct-  
89 support organization to develop research strategies and evaluate  
90 proposals for research grants that routinely contain sensitive  
91 or proprietary information, including specific research  
92 approaches and targets of investigation, the disclosure of which  
93 could injure those conducting the research. Maintaining the  
94 confidentiality of research strategies, plans, and proposals is  
95 a hallmark of a responsible funding process, is practiced by the  
96 National Science Foundation and the National Institutes of  
97 Health, and allows for candid exchanges among reviewers. The  
98 state has recognized these realities by expressly making most of  
99 the records of direct-support organizations confidential and  
100 exempt from the state's public records requirements, including  
101 proposals seeking research funding. Failure to close meetings in  
102 which these activities are discussed would significantly  
103 undermine the confidentiality of the strategies, plans, and  
104 proposals themselves. Without the exemption from public meeting  
105 requirements, the release during a public meeting of a proposal  
106 seeking research funding from the direct-support organization or  
107 a plan or program for either initiating or supporting research  
108 would defeat the purpose of the public records exemption. It is  
109 therefore the finding of the Legislature that the exemption from  
110 public meeting requirements is a public necessity.

111 Section 3. This act shall take effect October 1, 2013.