

By the Committee on State Administration and
Representative Brummer

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.07, F.S.; providing an exemption from
4 public records requirements for records created
5 or acquired by an agency or its employees for
6 the purpose of contracting for a service, and
7 for records created or acquired by another
8 agency for the purpose of delivering such
9 service, for a specified period of time;
10 providing for future review and repeal;
11 providing a finding of public necessity;
12 providing an effective date.

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

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16 Section 1. Paragraph (dd) is added to subsection (3)
17 of section 119.07, Florida Statutes, to read:

18 119.07 Inspection, examination, and duplication of
19 records; exemptions.--

20 (3)

21 (dd) If an agency is contemplating contracting for a
22 service, through competitive bids or otherwise, then the
23 following records are exempt from subsection (1) and s. 24(a),
24 Art. I of the State Constitution:

25 1. All records created or acquired by that agency or
26 its employees for the purpose of contracting for such service,
27 including draft bids or draft proposals and supporting
28 documentation.

29 2. All records created or acquired by another agency
30 for the purpose of delivering such service, including draft
31 bids or draft proposals and supporting documentation.

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2 If such records include information that is otherwise publicly
3 available, this exemption does not limit that other access.
4 If a bid or a proposal is submitted by an agency or its
5 employees, then that submitted bid or proposal is governed by
6 existing public records law applicable to the receiving
7 agency. This exemption is no longer applicable once a
8 contract is awarded, a decision is made not to award such
9 contract, or the project is no longer under active
10 consideration. This paragraph is subject to the Open
11 Government Sunset Review Act of 1995 in accordance with s.
12 119.15, and shall stand repealed on October 2, 2006, unless
13 reviewed and saved from repeal through reenactment by the
14 Legislature.

15 Section 2. The Legislature finds that the exemption
16 created by s. 119.07(3)(dd), Florida Statutes, is a public
17 necessity because in order for an agency to receive and
18 provide services as cost-effectively and efficiently as
19 possible, and for its employees to compete fairly with private
20 entities, through competitive bids or otherwise, records
21 created or acquired by an agency or its employees for the
22 purpose of contracting for such service as well as records
23 created or acquired by another agency for the purpose of
24 delivering such service, including draft bids or draft
25 proposals and supporting documentation, must be exempt from
26 public disclosure. If such records were not exempt from public
27 disclosure, private sector businesses could request this
28 information and then prepare a bid or proposal that would
29 effectively eliminate the ability of an agency or its
30 employees to successfully compete. If this occurred, an
31 agency or its employees would probably not participate in the

