

By the Council for Smarter Government and Representative
Andrews

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from public records requirements for
4 unsolicited proposals received by the
5 Department of Transportation or an expressway
6 authority with respect to public-private
7 transportation facilities; providing an
8 exception to the exemption; providing for
9 future review and repeal; providing findings of
10 public necessity; providing a contingent
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (ee) is added to subsection (3)
16 of section 119.07, Florida Statutes, to read:

17 119.07 Inspection, examination, and duplication of
18 records; exemptions.--

19 (3)

20 (ee) An unsolicited proposal for a public-private
21 transportation facility received by the Department of
22 Transportation pursuant to s. 334.30 or an expressway
23 authority pursuant to s. 348.0004 is exempt from the
24 provisions of subsection (1) and s. 24(a), Art. I of the State
25 Constitution from the date the unsolicited proposal is
26 received until the deadline date for receiving competing
27 proposals has expired as provided in s. 334.30. The
28 department or expressway authority may share information
29 contained in the unsolicited proposal with any other
30 governmental entity for the purpose of substantiating or
31 evaluating such proposal. The receiving governmental entity

1 must maintain the exempt status of such information as
2 provided herein. This paragraph is subject to the Open
3 Government Sunset Review Act of 1995 in accordance with s.
4 119.15 and shall stand repealed on October 2, 2007, unless
5 reviewed and saved from repeal through reenactment by the
6 Legislature.

7 Section 2. The Legislature finds that the exemption
8 from public records requirements provided in this act is a
9 public necessity due to the need to prevent potential
10 competing proposers of public-private transportation
11 facilities from obtaining an unfair advantage over the initial
12 unsolicited proposer. The Legislature further finds that to
13 make the proprietary information in an unsolicited proposal
14 available to potential competing proposers would adversely
15 affect the integrity of the competitive selection process
16 under s. 334.30, Florida Statutes, and would deter the
17 submission of unsolicited proposals for public-private
18 transportation facilities to the Department of Transportation
19 or an expressway authority. The Legislature further finds that
20 the need to substantiate or evaluate information contained in
21 an unsolicited proposal, though furthering a state interest,
22 does not override the public policy determinations made to
23 exempt that information from public disclosure and that
24 unsolicited proposals should retain their exempt status when
25 held by another governmental entity until the expiration of
26 the deadline date to submit competing proposals.

27 Section 3. This act shall take effect on the date that
28 Committee Substitute for House Bill 435 or similar
29 legislation, adopted in the same legislative session or an
30 extension thereof, becomes law.

31