

By the Committee on Governmental Oversight and Productivity;
and Senator Garcia

302-2297-02

1 A bill to be entitled
2 An act relating to public meetings; amending s.
3 286.011, F.S.; providing that certain meetings
4 of procurement evaluation or negotiation teams
5 for specified governmental entities may be
6 closed to the public; prescribing the
7 conditions under which such meetings may be
8 closed; requiring closed meetings to be
9 recorded and the recording, excluding portions
10 otherwise made exempt or made confidential and
11 exempt, to be made available later for public
12 inspection; providing a statement of public
13 necessity; providing an effective date.

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

17 Section 1. Subsection (9) is added to section 286.011,
18 Florida Statutes, to read:

19 286.011 Public meetings and records; public
20 inspection; criminal and civil penalties.--

21 (9)(a) Notwithstanding subsection (1), a procurement
22 evaluation or negotiation team for a state agency or authority
23 or for an agency or authority of a county, municipal
24 corporation, or other political subdivision may meet in
25 private to discuss bids, proposals, or replies received by the
26 agency or authority from vendors in response to its invitation
27 to bid, request for proposals, or invitation to negotiate if:

28 1. The subject matter of the meeting is confined to
29 the evaluation of bids, proposals, or replies or to the
30 negotiation of a contract;

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1 2. The agency or authority gives reasonable public
2 notice of the time and date of the meeting and the names of
3 the persons expected to participate in the meeting;

4 3. The persons presiding over the meeting announce and
5 document in writing the times of commencement and termination
6 of the meeting and the names of all persons attending and
7 speaking at the meeting;

8 4. The discussions and proceedings during the meeting
9 are audibly recorded on tape or recorded by a certified court
10 reporter, with no portion of the meeting off the record; and

11 5. The tape or transcript of the meeting is maintained
12 in the contract file.

13 (b) The tape or transcript required by paragraph (a)
14 shall become a public record, except those portions otherwise
15 made exempt or made confidential and exempt by law, at the
16 following times:

17 1. If the agency or authority is subject to chapter
18 120, when the agency or authority provides notice of a
19 decision or intended decision pursuant to s. 120.57(3); or

20 2. If the agency or authority is not subject to
21 chapter 120, when notice of an administrative or judicial
22 challenge to the procurement is filed or when the agency or
23 authority provides notice of a contract award, rejects all
24 bids, proposals, or replies, or withdraws the solicitation,
25 whichever occurs first.

26 (c) This subsection is subject to the Open Government
27 Sunset Review Act of 1995 in accordance with s. 119.15, and
28 shall stand repealed October 2, 2007, unless reviewed and
29 saved from repeal through reenactment by the Legislature.

30 Section 2. The Legislature finds that closing the
31 meetings of procurement evaluation or negotiation teams in

1 which bids, proposals, or replies are discussed or contracts
2 are negotiated is a public necessity. During such meetings,
3 trade secret information that is made confidential and exempt
4 by law may be discussed, and disclosure of that information
5 would negatively impact the business interests of those
6 providing such trade secrets by damaging them in the
7 marketplace. Further, permitting the disclosure of trade
8 secrets and the premature disclosure of other business
9 information in public procurement meetings results in
10 competitors gaining unfair advantage during the public
11 procurement process. As a consequence, vendors may hesitate to
12 conduct business or may refuse to fully cooperate with
13 governmental agencies and authorities, thereby limiting the
14 pool of potential competitors and impairing efficient and
15 cost-effective public procurement. Additionally, the
16 requirement of public meetings hampers full and effective
17 discussion among the evaluation team members and among the
18 negotiation team members and vendors, as the parties are
19 unable to verbalize all aspects of the bid, proposal, or
20 reply. Thus, the public and private harm in requiring open
21 procurement evaluation and negotiation meetings significantly
22 outweighs any public benefit derived from immediate
23 disclosure. The public's ability to scrutinize and monitor
24 agency or authority action will be preserved as recordings of
25 the meetings must be made available for public inspection
26 later in the procurement process, except for those portions of
27 the recordings that are made exempt, or made confidential and
28 exempt, by law.

29 Section 3. This act shall take effect July 1, 2002.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 646

Creates a public meetings exemption for specified government procurement evaluation or negotiation team meetings. Requires the subject matter of the meetings to be limited to the evaluation of bids, proposals, or replies, or to the negotiation of a contract. Requires reasonable public notice to be given for the meetings. Requires the meetings to be recorded by tape or by a certified court reporter. Requires the tape or transcript, except for portions that are exempt or confidential and exempt, to become public record at specified times. Provides for automatic repeal. Provides a statement of public necessity. Provides an effective date.