

HB 1889

2004

A bill to be entitled

An act relating to public records exemptions; creating s. 287.0371, F.S.; creating an exemption from public records requirements for proprietary confidential business information received by an agency pursuant to s. 287.037, F.S.; requiring written determination by the receiving agency that release of such information would impair the competitive interest of the provider of the information; providing for future review and repeal; creating s. 287.0461, F.S.; creating an exemption from public records requirements for a business case submitted to the President of the Senate and the Speaker of the House of Representatives and held by an agency; providing for termination of the exemption under certain circumstances; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 287.0371, Florida Statutes, is created to read:

287.0371 Public records exemption; proprietary confidential business information.--

(1) Proprietary confidential business information received by an agency pursuant to s. 287.037 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon a determination by the receiving agency that disclosure of such information would impair the competitive interest of the

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30 provider of that information. Such determination shall be  
 31 reflected in writing by the receiving agency. Proprietary  
 32 confidential business information made exempt by this section  
 33 shall be available for inspection and copying for 50 years after  
 34 the date of receipt of such information.

35 (2) This section is subject to the Open Government Sunset  
 36 Review Act of 1995 in accordance with s. 119.15 and shall stand  
 37 repealed on October 2, 2009, unless reviewed and saved from  
 38 repeal through reenactment by the Legislature.

39 Section 2. Section 287.0461, Florida Statutes, is created  
 40 to read:

41 287.0461 Public records exemption; business case.--

42 (1) A business case submitted to the President of the  
 43 Senate and the Speaker of the House of Representatives pursuant  
 44 to s. 287.046(3)(d), which is held by an agency, is exempt from  
 45 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
 46 This exemption expires on the date the contract is executed or  
 47 upon legislative objection to the contract pursuant to s.  
 48 216.177(2)(b).

49 (2) This section is subject to the Open Government Sunset  
 50 Review Act of 1995 in accordance with s. 119.15 and shall stand  
 51 repealed on October 2, 2009, unless reviewed and saved from  
 52 repeal through reenactment by the Legislature.

53 Section 3. The Legislature finds that it is a public  
 54 necessity that proprietary confidential business information  
 55 held by an agency pursuant to s. 287.037, Florida Statutes, and  
 56 a business case submitted to the President of the Senate and the  
 57 Speaker of the House of Representatives pursuant to s.  
 58 287.046(3)(d), Florida Statutes, which is held by an agency, be

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59 made exempt from public disclosure. Proprietary confidential  
60 business information, together with information contained in a  
61 business case, includes information that gives a vendor its  
62 business advantage in the marketplace. If such information were  
63 disclosed, a vendor would no longer be able to maintain its  
64 level of competitiveness. The disclosure of such information  
65 would adversely impact the vendor participating in the public  
66 procurement process and would create an unfair competitive  
67 advantage for other vendors receiving such information. If such  
68 were the case, vendors would be discouraged from participating  
69 in such process. A reduction in competition for public  
70 procurements would inevitably lead to an increase in the price  
71 of commodities and contractual services and a decrease in  
72 quality. Accordingly, the disclosure of such information,  
73 including information submitted in a business case, would impede  
74 the effective and efficient administration of public procurement  
75 and would create an unfair competitive advantage for vendors  
76 having access to such information submitted by those vendors  
77 participating in the bidding process.

78       Section 4. This act shall take effect on the date HB 1819  
79 or similar legislation takes effect, if such legislation is  
80 adopted in the same legislative session or an extension thereof  
81 and becomes a law.