

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Eagle offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 377.24075, Florida Statutes, is created
 8 to read:

9 377.24075 Exemption from public records requirements.-

10 Proprietary business information held by the Department of
 11 Environmental Protection in accordance with its statutory duties
 12 with respect to an application for a natural gas storage
 13 facility permit is confidential and exempt from s. 119.07(1) and
 14 s. 24(a), Art. I of the State Constitution.

15 (1) As used in this section, the term "proprietary business
 16 information" means information that:

17 (a) Is owned or controlled by the applicant or a person
 18 affiliated with the applicant.

19 (b) Is intended to be private and is treated by the
 20 applicant as private because disclosure would harm the applicant

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21 or the applicant's business operations.

22 (c) Has not been disclosed except as required by law or a
23 private agreement that provides that the information will not be
24 released to the public.

25 (d) Is not publicly available or otherwise readily
26 ascertainable through proper means from another source in the
27 same configuration as requested by the department.

28 (e) Includes, but is not limited to:

29 1. Trade secrets.

30 2. Leasing plans, real property acquisition plans,
31 exploration budgets, or marketing studies, the disclosure of
32 which would impair the efforts of the applicant or its
33 affiliates to contract for goods or services or to acquire real
34 property interests on favorable terms.

35 3. Competitive interests, which may include well design or
36 completion plans, geological or engineering studies related to
37 storage reservoir performance characteristics, or field
38 utilization strategies or operating plans, the disclosure of
39 which would impair the competitive business of the applicant
40 providing the information.

41 (f) May be found in a document:

42 1. Filed with the Department of Environmental Protection by
43 the applicant or affiliated person seeking a natural gas storage
44 facility permit pursuant to s. 377.2407; or

45 2. Sent to the Department of Environmental Protection from
46 another governmental entity for use by the department in the
47 performance of its duties. This subparagraph applies only if the
48 information is otherwise confidential or exempt as held by the
49 governmental entity.

50 (2) The Department of Environmental Protection may disclose

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51 confidential and exempt proprietary business information:

52 (a) Pursuant to a court order;

53 (b) If the applicant to which it pertains gives prior
54 written consent; or

55 (c) To another state agency in this or another state or to
56 a federal agency if the recipient agrees in writing to maintain
57 the confidential and exempt status of the document, material, or
58 other information and has verified in writing its legal
59 authority to maintain such confidentiality.

60 (3) This section is subject to the Open Government Sunset
61 Review Act in accordance with s. 119.15 and shall stand repealed
62 on October 2, 2018, unless reviewed and saved from repeal
63 through reenactment by the Legislature.

64 Section 2. (1) The Legislature finds that it is a public
65 necessity that proprietary business information provided to the
66 Department of Environmental Protection which relates to trade
67 secrets, leasing plans, real property acquisition plans,
68 exploration budgets, proprietary well design or completion
69 plans, geological or engineering studies related to storage
70 reservoir performance characteristics, field utilization
71 strategies or operating plans, commercial or marketing studies,
72 or other proprietary business information provided by a person
73 in conjunction with an application to establish an underground
74 natural gas storage facility as defined in s. 377.19, Florida
75 Statutes, be made confidential and exempt from s. 119.07(1),
76 Florida Statutes, and s. 24(a), Article I of the State
77 Constitution. The disclosure of such proprietary business
78 information could injure an applicant in the marketplace by
79 giving competitors detailed insight into technical assessments,
80 design, and experience, thereby putting the applicant at a

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81 competitive disadvantage. Without this exemption, applicants
82 might be less willing to expend or commit to expend the
83 substantial resources necessary to determine the feasibility of
84 establishing, permitting, and operating an underground natural
85 gas storage facility, resulting in limited opportunities for
86 developing the additional natural gas storage capacity that this
87 state critically needs to meet current and future residential,
88 commercial, and industrial energy needs. The resulting lack of
89 resources could hinder the ability of electric utility services
90 to optimize services to their customers and could adversely
91 affect those customers by depriving them of the opportunities
92 and energy security that comes with domestic reserves of natural
93 gas stored underground.

94 (2) Proprietary business information derives actual or
95 potential independent economic value from not being generally
96 known to and not being readily ascertainable by other persons
97 who can derive economic value from its disclosure or use. The
98 Department of Environmental Protection, in the course of
99 reviewing and issuing permitting decisions relating to
100 underground natural gas storage facility permits, may need to
101 obtain proprietary business information. Disclosure of such
102 information could destroy the value of that property and could
103 cause economic harm to the applicant providing the information.
104 Additionally, the reduced competition for the provision of
105 domestic underground storage of natural gas could adversely
106 affect energy utility customers. The exemption created by this
107 act will enhance the ability to increase domestic storage of
108 natural gas, thereby creating a significant benefit to energy
109 utility customers. In finding that the public records exemption
110 created by this act is a public necessity, the Legislature also

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111 finds that any public benefit derived from disclosure of the
112 information is significantly outweighed by the public and
113 private harm that could result from disclosure after submittal
114 of such proprietary business information.

115 Section 3. This act shall take effect October 1, 2013, if
116 SB 958 or similar legislation is adopted in the same legislative
117 session or an extension thereof and becomes a law.
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120 **T I T L E A M E N D M E N T**

121 Remove everything before the enacting clause and insert:

122 An act relating to public records; creating s.
123 377.24075, F.S.; creating an exemption from public
124 records requirements for certain information provided
125 in an application for a natural gas storage facility
126 permit to inject and recover gas into and from a
127 natural gas storage reservoir; providing for future
128 review and repeal of the public records exemption
129 under the Open Government Sunset Review Act; providing
130 a statement of public necessity; providing a
131 contingent effective date.
132