

27 (b) Is intended to be private and is treated by the
28 applicant as private because disclosure would harm the applicant
29 or the applicant's business operations.

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

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

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

37 1. Trade secrets.

38 2. Leasing plans, real property acquisition plans,
39 exploration budgets, or marketing studies, the disclosure of
40 which would impair the efforts of the applicant or its
41 affiliates to contract for goods or services or to acquire real
42 property interests on favorable terms.

43 3. Competitive interests, which may include well design or
44 completion plans, geological or engineering studies related to
45 storage reservoir performance characteristics, or field
46 utilization strategies or operating plans, the disclosure of
47 which would impair the competitive business of the applicant
48 providing the information.

49 (f) May be found in a document:

50 1. Filed with the department by the applicant or
51 affiliated person seeking a natural gas storage facility permit
52 pursuant to s. 377.2407; or

53 2. Sent to the department from another governmental entity
54 for use by the department in the performance of its duties. This

55 subparagraph applies only if the information is otherwise
56 confidential or exempt as held by the governmental entity.

57 (2) The department may disclose confidential and exempt
58 proprietary business information:

59 (a) Pursuant to a court order;

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

62 (c) To another state agency in this or another state or to
63 a federal agency if the recipient agrees in writing to maintain
64 the confidential and exempt status of the document, material, or
65 other information and has verified in writing its legal
66 authority to maintain such confidentiality.

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68 Review Act in accordance with s. 119.15 and shall stand repealed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

71 Section 2. (1) The Legislature finds that it is a public
72 necessity that proprietary business information provided to the
73 Department of Environmental Protection which relates to trade
74 secrets, leasing plans, real property acquisition plans,
75 exploration budgets, proprietary well design or completion
76 plans, geological or engineering studies related to storage
77 reservoir performance characteristics, field utilization
78 strategies or operating plans, commercial or marketing studies,
79 or other proprietary business information provided by a person
80 in conjunction with an application to establish an underground
81 natural gas storage facility as defined in s. 377.19, Florida
82 Statutes, be made confidential and exempt from s. 119.07(1),

83 Florida Statutes, and s. 24(a), Article I of the State
84 Constitution. The disclosure of such proprietary business
85 information could injure an applicant in the marketplace by
86 giving competitors detailed insight into technical assessments,
87 design, and experience, thereby putting the applicant at a
88 competitive disadvantage. Without this exemption, applicants
89 could be less willing to expend or commit to expend the
90 substantial resources necessary to determine the feasibility of
91 establishing, permitting, and operating an underground natural
92 gas storage facility, resulting in limited opportunities for
93 developing the additional natural gas storage capacity that this
94 state critically needs to meet current and future residential,
95 commercial, and industrial energy needs. The resulting lack of
96 resources could hinder the ability of electric utility services
97 to optimize services to their customers and could adversely
98 affect their customers by depriving them of the opportunities
99 and energy security that comes with domestic reserves of natural
100 gas stored underground.

101 (2) Proprietary business information derives actual or
102 potential independent economic value from not being generally
103 known to, and not being readily ascertainable by, other persons
104 who can derive economic value from its disclosure or use. The
105 Department of Environmental Protection, in the course of
106 reviewing and issuing permitting decisions relating to
107 underground natural gas storage facility permits, may need to
108 obtain proprietary business information. Disclosure of such
109 information could destroy the value of that property and could
110 cause economic harm to the applicant providing the information.

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111 Additionally, the reduced competition for provision of domestic
112 underground storage of natural gas could also adversely affect
113 energy utility customers. The exemption created by this act will
114 enhance the ability to increase domestic storage of natural gas,
115 thereby creating a significant benefit to energy utility
116 customers. In finding that the public records exemption created
117 by this act is a public necessity, the Legislature also finds
118 that any public benefit derived from disclosure of the
119 information is significantly outweighed by the public and
120 private harm that could result from disclosure after submittal
121 of such proprietary business information.

122 Section 3. This act shall take effect October 1, 2013, if
123 HB 1083 or similar legislation is adopted in the same
124 legislative session or an extension thereof and becomes a law.