

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 377.24075, F.S.; creating an exemption from public
 4 records requirements for proprietary business
 5 information provided in an application for a natural
 6 gas storage facility permit to inject and recover gas
 7 into and from a natural gas storage reservoir;
 8 defining the term "proprietary business information";
 9 authorizing disclosure of such information under
 10 specified conditions; providing for future review and
 11 repeal of the public records exemption under the Open
 12 Government Sunset Review Act; providing a statement of
 13 public necessity; providing a contingent effective
 14 date.

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

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 18 Section 1. Section 377.24075, Florida Statutes, is created
 19 to read:

20 377.24075 Exemption from public records requirements.—
 21 Proprietary business information held by the Department of
 22 Environmental Protection in accordance with its statutory duties
 23 with respect to an application for a natural gas storage
 24 facility permit is confidential and exempt from s. 119.07(1) and
 25 s. 24(a), Art. I of the State Constitution.

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

28 (a) Is owned or controlled by the applicant or a person
29 affiliated with the applicant.

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

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

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

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

40 1. Trade secrets as defined in s. 688.002.

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

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

52 (f) May be found in a document:

53 1. Filed with the department by the applicant or
54 affiliated person seeking a natural gas storage facility permit
55 pursuant to s. 377.2407; or

56 2. Sent to the department from another governmental entity
57 for use by the department in the performance of its duties. This
58 subparagraph applies only if the information is otherwise
59 confidential or exempt as held by the governmental entity.

60 (2) The department may disclose confidential and exempt
61 proprietary business information:

62 (a) Pursuant to a court order;

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

65 (c) To another governmental entity if the receiving entity
66 agrees in writing to maintain the confidential and exempt status
67 of the information and has verified in writing its legal
68 authority to maintain such confidentiality.

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

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

84 Statutes, be made confidential and exempt from s. 119.07(1),
85 Florida Statutes, and s. 24(a), Article I of the State
86 Constitution. The disclosure of such proprietary business
87 information could injure an applicant in the marketplace by
88 giving competitors detailed insight into technical assessments,
89 design, and experience, thereby putting the applicant at a
90 competitive disadvantage. Without this exemption, applicants
91 could be less willing to expend or commit to expend the
92 substantial resources necessary to determine the feasibility of
93 establishing, permitting, and operating an underground natural
94 gas storage facility, resulting in limited opportunities for
95 developing the additional natural gas storage capacity that this
96 state critically needs to meet current and future residential,
97 commercial, and industrial energy needs. The resulting lack of
98 resources could hinder the ability of electric utility services
99 to optimize services to their customers and could adversely
100 affect their customers by depriving them of the opportunities
101 and energy security that comes with domestic reserves of natural
102 gas stored underground.

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

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

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