

By Senator Margolis

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; revising an exemption from public
4 records requirements for any financial statement that
5 an agency requires a prospective bidder to submit in
6 order to prequalify for bidding or for responding to a
7 proposal for a road or public works project; providing
8 an exemption from public records requirements for any
9 financial statement that a governmental entity or
10 agency requires a prospective bidder to submit when
11 bidding in response to an invitation to bid,
12 submitting a letter of interest, or responding to a
13 request for proposals or an invitation to negotiate
14 pursuant to a public procurement; providing an
15 exemption from public records requirements for
16 financial information that a governmental entity
17 requires a person to submit when responding to a
18 solicitation; providing an exception; providing for
19 future legislative review and repeal of the exemption
20 under the Open Government Sunset Review Act; providing
21 a statement of public necessity; providing an
22 effective date.

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

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26 Section 1. Paragraph (c) of subsection (1) of section
27 119.071, Florida Statutes, is amended to read:

28 119.071 General exemptions from inspection or copying of
29 public records.—

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30 (1) AGENCY ADMINISTRATION.—

31 (c) 1. A Any financial statement that a governmental entity
32 or an agency requires a prospective bidder to submit when in
33 order to prequalify for bidding in response to an invitation to
34 bid, submitting a letter of interest, or for responding to a
35 request for proposals or an invitation to negotiate pursuant to
36 a public procurement proposal for a road or any other public
37 works project is exempt from s. 119.07(1) and s. 24(a), Art. I
38 of the State Constitution.

39 2. Any financial information that a governmental entity or
40 agency requires a person to submit when responding to a
41 solicitation or otherwise is exempt from s. 119.07(1) and s.
42 24(a), Art. I of the State Constitution. This subparagraph does
43 not apply to publicly traded companies and nonprofit
44 organizations.

45 3. This paragraph is subject to the Open Government Sunset
46 Review Act in accordance with s. 119.15 and shall stand repealed
47 on October 2, 2018, unless reviewed and saved from repeal
48 through reenactment by the Legislature.

49 Section 2. It is the finding of the Legislature that it is
50 a public necessity that a financial statement that a
51 governmental entity or agency requires a prospective bidder to
52 submit when bidding in response to an invitation to bid,
53 submitting a letter of interest, or responding to a request for
54 proposals or an invitation to negotiate pursuant to a public
55 procurement be held exempt from public records requirements.
56 Although it is important to demonstrate financial stability to a
57 governmental entity or agency making a selection from among
58 bidders responding to an invitation to bid, individuals and

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59 entities submitting letters of interest, and respondents to
60 requests for proposals and invitations to negotiate pursuant to
61 a public procurement, public disclosure of the financial
62 statement of a prospective bidder or respondent creates an
63 unfair business advantage for competing firms. Because private
64 companies and individuals must be able to bid on and compete for
65 projects without concern that their financial records could be
66 subject to public scrutiny and, consequently, the scrutiny of
67 their competitors, it is the finding of the Legislature that a
68 financial statement that a governmental entity or agency
69 requires a prospective bidder to submit when bidding in response
70 to an invitation to bid, submitting a letter of interest, or
71 responding to a request for proposals or an invitation to
72 negotiate pursuant to a public procurement be made exempt from
73 public records requirements.

74 Section 3. This act shall take effect October 1, 2013.