

By the Committee on Education; and Senator Montford

581-02638-13

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1 A bill to be entitled

2 An act relating to public meetings; amending s.
3 1004.28, F.S.; providing an exemption from public
4 meeting requirements for certain portions of meetings
5 of a university direct-support organization or of the
6 executive committee or other committees of the board
7 of directors of such organization; providing for
8 legislative review and repeal of the exemption;
9 providing a statement of public necessity; providing
10 an effective date.

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

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14 Section 1. Subsection (5) of section 1004.28, Florida
15 Statutes, is amended to read:

16 1004.28 Direct-support organizations; use of property;
17 board of directors; activities; audit; facilities.—

18 (5) ANNUAL AUDIT; PUBLIC RECORDS AND MEETINGS EXEMPTION.—

19 (a) Each direct-support organization shall provide for an
20 annual financial audit of its accounts and records to be
21 conducted by an independent certified public accountant in
22 accordance with rules adopted by the Auditor General pursuant to
23 s. 11.45(8) and by the university board of trustees. The annual
24 audit report shall be submitted, within 9 months after the end
25 of the fiscal year, to the Auditor General and the Board of
26 Governors for review. The Board of Governors, the university
27 board of trustees, the Auditor General, and the Office of
28 Program Policy Analysis and Government Accountability ~~shall~~ have
29 the authority to require and receive from the organization or

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30 from its independent auditor ~~any~~ records relative to the
31 operation of the organization.

32 (b) The identity of donors who desire to remain anonymous
33 shall be protected, and that anonymity shall be maintained in
34 the auditor's report. All records of the organization other than
35 the auditor's report, management letter, and ~~any~~ supplemental
36 data requested by the Board of Governors, the university board
37 of trustees, the Auditor General, and the Office of Program
38 Policy Analysis and Government Accountability are ~~shall be~~
39 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

40 (c) Any portion of a meeting of the board of directors of
41 the organization, or of the executive committee or other
42 committees of such board, at which the identity of a donor or
43 prospective donor, a proposal seeking research funding from the
44 organization, or a plan or program for either initiating or
45 supporting research is discussed, is exempt from s. 286.011 and
46 s. 24(b), Art. I of the State Constitution. This paragraph is
47 subject to the Open Government Sunset Review Act in accordance
48 with s. 119.15, and shall stand repealed on October 2, 2018,
49 unless reviewed and saved from repeal through reenactment by the
50 Legislature.

51 Section 2. (1) The Legislature finds that it is a public
52 necessity that any portion of a meeting of the board of
53 directors of a university direct-support organization, or the
54 executive committee or other committees of the board, at which
55 the identity of a donor or prospective donor is discussed be
56 exempt from disclosure. For the benefit of the state
57 universities, and ultimately all citizens of this state, direct-
58 support organizations serve a vital role in raising charitable

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59 donations from private sources. This undertaking demands great
60 sensitivity and discretion, as donors and prospective donors
61 frequently seek anonymity and are concerned about the potential
62 release of sensitive financial information. If direct-support
63 organizations cannot protect the anonymity of donors or
64 prospective donors, prospective donors may decline to
65 contribute, thus hampering the ability of the direct-support
66 organization to fully accomplish its mission. The state
67 recognizes these realities by expressly making most of the
68 records of direct-support organizations confidential and exempt
69 from the state's public records laws, including the identity of
70 donors or prospective donors. Failure to close meetings at which
71 the identity of donors or prospective donors is discussed would
72 significantly compromise the confidentiality of such donors.

73 (2) The Legislature further finds that it is a public
74 necessity that any portion of a meeting of the board of
75 directors of a university direct-support organization, or the
76 executive committee or other committees of the board, at which a
77 proposal seeking research funding from the organization or a
78 plan or program for either initiating or supporting research is
79 discussed be exempt from disclosure. The resources raised by
80 direct-support organizations are frequently used to fund
81 university-connected research projects, which provide valuable
82 opportunities for faculty and students and may lead to future
83 commercial applications. This activity requires the direct-
84 support organization to evaluate proposals and examine plans or
85 programs for either initiating or supporting research which
86 contain highly proprietary information, including specific
87 research approaches and targets of investigation. Maintaining

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88 the confidentiality of research plans and proposals is a
89 hallmark of research funding, is practiced by the National
90 Science Foundation and the National Institutes of Health, and
91 allows for candid exchanges between reviewers critiquing plans
92 and proposals. This exemption is necessary because the failure
93 to close access to portions of meetings in which these
94 activities are discussed would significantly undermine the
95 confidentiality of the research plans and proposals and may
96 injure the affected researcher.

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