

By the Committees on Governmental Oversight and Accountability;
and Education; and Senator Montford

585-04022-13

20131276c2

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.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
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

585-04022-13

20131276c2

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. The Legislature finds that it is a public
52 necessity that meetings of the board of directors of a direct-
53 support organization established under s. 1004.28, Florida
54 Statutes, or of the executive committee or other committees of
55 such board, at which the identity of a donor or prospective
56 donor, any proposal seeking research funding from the
57 organization, or a plan or program for either initiating or
58 supporting research is discussed should be held exempt from s.

585-04022-13

20131276c2

59 286.011, Florida Statutes, and s. 24(b), Art. I of the State
60 Constitution. For the benefit of our state universities, and
61 ultimately all the people of Florida, direct-support
62 organizations serve a vital role in raising donations from
63 private sources. This undertaking demands great sensitivity and
64 discretion, as donors frequently seek anonymity and are
65 concerned about the potential release of sensitive financial
66 information. If direct-support organizations cannot honor those
67 requests and protect such information from public disclosure,
68 potential donors may decline to contribute, thus hampering the
69 ability of the direct-support organization to carry out its
70 activities. The state has recognized these realities by making
71 most of the records of direct-support organizations confidential
72 and exempt from the state's public records requirements,
73 including the identity of donors and prospective donors.
74 However, without the exemption from public meeting requirements,
75 release of the identity of donors or prospective donors via a
76 public meeting would defeat the purpose of the public records
77 exemption. It is therefore the finding of the Legislature that
78 the exemption from public meeting requirements is a public
79 necessity. Additionally, the resources raised by direct-support
80 organizations are frequently used to initiate, develop, and fund
81 plans and programs for research that routinely contain sensitive
82 proprietary information, including university-connected research
83 projects, which provide valuable opportunities for faculty and
84 students and may lead to future commercial applications. This
85 activity requires the direct-support organization to develop
86 research strategies and evaluate proposals for research grants
87 that routinely contain sensitive or proprietary information,

585-04022-13

20131276c2

88 including specific research approaches and targets of
89 investigation, the disclosure of which could injure those
90 conducting the research. Maintaining the confidentiality of
91 research strategies, plans, and proposals is a hallmark of a
92 responsible funding process, is practiced by the National
93 Science Foundation and the National Institutes of Health, and
94 allows for candid exchanges among reviewers. The state has
95 recognized these realities by expressly making most of the
96 records of direct-support organizations confidential and exempt
97 from the state's public records requirements, including
98 proposals seeking research funding. Failure to close meetings in
99 which these activities are discussed would significantly
100 undermine the confidentiality of the strategies, plans, and
101 proposals themselves. Without the exemption from public meeting
102 requirements, the release during a public meeting of a proposal
103 seeking research funding from the direct-support organization or
104 a plan or program for either initiating or supporting research
105 would defeat the purpose of the public records exemption. It is
106 therefore the finding of the Legislature that the exemption from
107 public meeting requirements is a public necessity.

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