

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 any portion of a meeting of  
 5           the board of directors of a university direct-support  
 6           organization, or of the executive committee or other  
 7           committees of such board, at which the identity of a  
 8           donor or prospective donor, any proposal seeking  
 9           research funding from the organization, or a plan or  
 10          program for either initiating or supporting research is  
 11          discussed; providing for review and repeal of the  
 12          exemption; providing a statement of public necessity;  
 13          providing an effective date.

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

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

19           1004.28 Direct-support organizations; use of property;  
 20           board of directors; activities; audit; facilities.—

21           (5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC  
 22           MEETINGS EXEMPTION.—

23           (a) Each direct-support organization shall provide for an  
 24           annual financial audit of its accounts and records to be  
 25           conducted by an independent certified public accountant in  
 26           accordance with rules adopted by the Auditor General pursuant to  
 27           s. 11.45(8) and by the university board of trustees. The annual  
 28           audit report shall be submitted, within 9 months after the end

29 | of the fiscal year, to the Auditor General and the Board of  
 30 | Governors for review. The Board of Governors, the university  
 31 | board of trustees, the Auditor General, and the Office of  
 32 | Program Policy Analysis and Government Accountability shall have  
 33 | the authority to require and receive from the organization or  
 34 | from its independent auditor any records relative to the  
 35 | operation of the organization. The identity of donors who desire  
 36 | to remain anonymous shall be protected, and that anonymity shall  
 37 | be maintained in the auditor's report.

38 |       **(b)** All records of the organization other than the  
 39 | auditor's report, management letter, and any supplemental data  
 40 | requested by the Board of Governors, the university board of  
 41 | trustees, the Auditor General, and the Office of Program Policy  
 42 | Analysis and Government Accountability shall be confidential and  
 43 | exempt from ~~the provisions of~~ s. 119.07(1).

44 |       **(c)** Any portion of a meeting of the board of directors of  
 45 | the organization, or of the executive committee or other  
 46 | committees of such board, at which the identity of a donor or  
 47 | prospective donor, any proposal seeking research funding from the  
 48 | organization, or a plan or program for either initiating or  
 49 | supporting research is discussed is exempt from s. 286.011 and s.  
 50 | 24(b), Art. I of the State Constitution. This paragraph is subject  
 51 | to the Open Government Sunset Review Act in accordance with s.  
 52 | 119.15 and shall stand repealed on October 2, 2018, unless  
 53 | reviewed and saved from repeal through reenactment by the  
 54 | Legislature.

55 |       Section 2. The Legislature finds that it is a public  
 56 | necessity that meetings of the board of directors of a direct-

57 | support organization established under s. 1004.28, Florida  
58 | Statutes, or of the executive committee or other committees of  
59 | such board, at which the identity of a donor or prospective  
60 | donor, any proposal seeking research funding from the  
61 | organization, or a plan or program for either initiating or  
62 | supporting research is discussed should be held exempt from s.  
63 | 286.011, Florida Statutes, and s. 24(b), Art. I of the State  
64 | Constitution. For the benefit of our state universities, and  
65 | ultimately all the people of Florida, direct-support  
66 | organizations serve a vital role in raising donations from  
67 | private sources. This undertaking demands great sensitivity and  
68 | discretion, as donors frequently seek anonymity and are concerned  
69 | about the potential release of sensitive financial information.  
70 | If direct-support organizations cannot honor those requests and  
71 | protect such information from public disclosure, potential  
72 | donors may decline to contribute, thus hampering the ability of  
73 | the direct-support organization to carry out its activities. The  
74 | state has recognized these realities by making most of the  
75 | records of direct-support organizations confidential and exempt  
76 | from the state's public records requirements, including the  
77 | identity of donors and prospective donors. However, without the  
78 | exemption from public meeting requirements, release of the  
79 | identity of donors or prospective donors via a public meeting  
80 | would defeat the purpose of the public records exemption. It is  
81 | therefore the finding of the Legislature that the exemption from  
82 | public meeting requirements is a public necessity. Additionally,  
83 | the resources raised by direct-support organizations are  
84 | frequently used to initiate, develop, and fund plans and

85 programs for research that routinely contain sensitive  
86 proprietary information, including university-connected research  
87 projects, which provide valuable opportunities for faculty and  
88 students and may lead to future commercial applications. This  
89 activity requires the direct-support organization to develop  
90 research strategies and evaluate proposals for research grants  
91 that routinely contain sensitive or proprietary information,  
92 including specific research approaches and targets of  
93 investigation, the disclosure of which could injure those  
94 conducting the research. Maintaining the confidentiality of  
95 research strategies, plans, and proposals is a hallmark of a  
96 responsible funding process, is practiced by the National Science  
97 Foundation and the National Institutes of Health, and allows for  
98 candid exchanges among reviewers. The state has recognized these  
99 realities by expressly making most of the records of direct-  
100 support organizations confidential and exempt from the state's  
101 public records requirements, including proposals seeking  
102 research funding. Failure to close meetings in which these  
103 activities are discussed would significantly undermine the  
104 confidentiality of the strategies, plans, and proposals  
105 themselves. Without the exemption from public meeting  
106 requirements, the release during a public meeting of a proposal  
107 seeking research funding from the direct-support organization or  
108 a plan or program for either initiating or supporting research  
109 would defeat the purpose of the public records exemption. It is  
110 therefore the finding of the Legislature that the exemption from  
111 public meeting requirements is a public necessity.

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