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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2013	.	
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The Committee on Communications, Energy, and Public Utilities (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 119.0713, Florida Statutes, to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

(4) (a) Proprietary confidential business information means information, regardless of form or characteristics, which is held by an electric utility that is subject to chapter 119, is intended to be and is treated by the entity that provided the



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13 information to the electric utility as private in that the
14 disclosure of the information would cause harm to the providing
15 entity or its business operations, and has not been disclosed
16 unless disclosed pursuant to a statutory provision, an order of
17 a court or administrative body, or private agreement that
18 provides that the information will not be released to the
19 public. Proprietary confidential business information includes,
20 but is not limited to:

21 1. Trade secrets.

22 2. Internal auditing controls and reports of internal
23 auditors.

24 3. Security measures, systems, or procedures.

25 4. Information concerning bids or other contractual data,
26 the disclosure of which would impair the efforts of the electric
27 utility to contract for goods or services on favorable terms.

28 5. Information relating to competitive interests, the
29 disclosure of which would impair the competitive business of the
30 provider of the information.

31 (b) Proprietary confidential business information held by
32 an electric utility that is subject to chapter 119 in
33 conjunction with a due diligence review of an electric project
34 as defined in s. 163.01(3)(d) or a project to improve the
35 delivery, cost, or diversification of fuel or renewable energy
36 resources is confidential and exempt from s. 119.07(1) and s.
37 24(a), Art. I of the State Constitution.

38 (c) All proprietary confidential business information
39 described in paragraph (b) shall be retained for one year after
40 the due diligence review has been completed and the electric
41 utility has decided whether or not to participate in the



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42 project.

43 (d) This subsection is subject to the Open Government
44 Sunset Review Act in accordance with s. 119.15, and shall stand
45 repealed on October 2, 2018, unless reviewed and saved from
46 repeal through reenactment by the Legislature.

47 Section 2. (1) The Legislature finds that it is a public
48 necessity that proprietary confidential business information
49 held by an electric utility that is subject to chapter 119,
50 Florida Statutes, in conjunction with a due diligence review of
51 an electric project as defined in s. 163.01(3)(d), Florida
52 Statutes, or a project to improve the delivery, cost, or
53 diversification of fuel or renewable energy resources be made
54 confidential and exempt from public records requirements. The
55 disclosure of such proprietary confidential business
56 information, such as trade secrets, internal auditing controls
57 and reports, security measures, systems, or procedures, or other
58 information relating to competitive interests, could injure the
59 provider in the marketplace by giving its competitors detailed
60 insights into its financial status and strategic plans, thereby
61 putting the provider at a competitive disadvantage. Without this
62 exemption, providers might be unwilling to enter into
63 discussions with the utility regarding the feasibility of future
64 contracting. This could, in turn, limit opportunities the
65 utility might otherwise have for finding cost-effective or
66 strategic solutions for providing electric service or improving
67 the delivery, cost, or diversification of fuel or renewable
68 energy. This would put public providers of electric utility
69 services at a competitive disadvantage by limiting their ability
70 to optimize services to their customers and adversely affecting



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71 the customers of those utilities by depriving them of
72 opportunities for rate reductions or other improvements in
73 services.

74 (2) Proprietary confidential business information derives
75 actual or potential independent economic value from not being
76 generally known to, and not being readily ascertainable by
77 proper means by, other persons who can derive economic value
78 from its disclosure or use. A utility, in performing the
79 appropriate due diligence review of electric projects or
80 projects to improve the delivery, cost, or diversification of
81 fuel or renewable energy sources, may need to obtain proprietary
82 confidential business information. Without an exemption from
83 public records requirements for this information, it becomes a
84 public record when received by an electric utility and must be
85 disclosed upon request. Disclosure of any propriety confidential
86 business information under the public records law would destroy
87 the value of that property and cause economic harm not only to
88 the entity or person providing the information, but to the
89 ratepayers through reduced competition for the provision of
90 vital electric utility services.

91 (3) In finding that the public records exemption created by
92 this act is a public necessity, the Legislature also finds that
93 the public and private harm in disclosing such proprietary
94 confidential business information significantly outweighs any
95 public benefit derived from disclosure of the information and
96 that the exemption created by this act will enhance the ability
97 of electric utilities to optimize their performance, thereby
98 benefiting the ratepayers.

99 Section 3. This act shall take effect July 1, 2013.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s.
119.0713, F.S.; providing an exemption from public
records requirements for specified proprietary
confidential business information held by an electric
utility that is subject to ch. 119, F.S., in
conjunction with a due diligence review of an electric
project or a project to improve the delivery, cost, or
diversification of fuel or renewable energy resources;
providing for the retention of such information for a
specified time; providing for future review and repeal
of the exemption; providing a statement of public
necessity; providing an effective date.