



370400

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
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



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 proprietary  
86 confidential business information under the public records law  
87 would destroy the value of that property and cause economic harm  
88 not only to the entity or person providing the information, but  
89 to the ratepayers through reduced competition for the provision  
90 of 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.