



370112

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
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The Committee on Environmental Preservation and Conservation  
(Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 377.24075, Florida Statutes, is created  
to read:

377.24075 Exemption from public records requirements.-  
Proprietary business information held by the Department of  
Environmental Protection in accordance with its statutory duties  
with respect to an application for a natural gas storage  
facility permit is confidential and exempt from s. 119.07(1) and  
s. 24(a), Art. I of the State Constitution.



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13           (1) As used in this section, the term "proprietary business  
14 information" means information that:

15           (a) Is owned or controlled by the applicant or a person  
16 affiliated with the applicant.

17           (b) Is intended to be private and is treated by the  
18 applicant as private because disclosure would harm the applicant  
19 or the applicant's business operations.

20           (c) Has not been disclosed except as required by law or a  
21 private agreement that provides that the information will not be  
22 released to the public.

23           (d) Is not publicly available or otherwise readily  
24 ascertainable through proper means from another source in the  
25 same configuration as requested by the department.

26           (e) Includes, but is not limited to:

27           1. Trade secrets;

28           2. Leasing plans, real property acquisition plans,  
29 exploration budgets, or marketing studies, the disclosure of  
30 which would impair the efforts of the applicant or its  
31 affiliates to contract for goods or services or to acquire real  
32 property interests on favorable terms; or

33           3. Competitive interests, which may include well design or  
34 completion plans, geological or engineering studies related to  
35 storage reservoir performance characteristics, or field  
36 utilization strategies or operating plans, the disclosure of  
37 which would impair the competitive business of the applicant  
38 providing the information.

39           (f) May be found in a document:

40           1. Filed with the Department of Environmental Protection by  
41 the applicant or affiliated person seeking a natural gas storage



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42 facility permit pursuant to s. 377.2407; or

43 2. Sent to the Department of Environmental Protection from  
44 another governmental entity for use by the department in the  
45 performance of its duties. This subparagraph applies only if the  
46 information is otherwise confidential or exempt as held by the  
47 governmental entity.

48 (2) The Department of Environmental Protection may disclose  
49 confidential and exempt proprietary business information:

50 (a) Pursuant to a court order;

51 (b) If the applicant to which it pertains gives prior  
52 written consent; or

53 (c) To another state agency in this or another state or to  
54 a federal agency if the recipient agrees in writing to maintain  
55 the confidential and exempt status of the document, material, or  
56 other information and has verified in writing its legal  
57 authority to maintain such confidentiality.

58 (3) This section is subject to the Open Government Sunset  
59 Review Act in accordance with s. 119.15 and shall stand repealed  
60 on October 2, 2018, unless reviewed and saved from repeal  
61 through reenactment by the Legislature.

62 Section 2. (1) The Legislature finds that it is a public  
63 necessity that proprietary business information provided to the  
64 Department of Environmental Protection which relates to trade  
65 secrets, leasing plans, real property acquisition plans,  
66 exploration budgets, proprietary well design or completion  
67 plans, geological or engineering studies related to storage  
68 reservoir performance characteristics, field utilization  
69 strategies or operating plans, commercial or marketing studies,  
70 or other proprietary business information provided by a person



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71 in conjunction with an application to establish an underground  
72 natural gas storage facility as defined in s. 377.19, Florida  
73 Statutes, be made confidential and exempt from s. 119.07(1),  
74 Florida Statutes, and s. 24(a), Article I of the State  
75 Constitution. The disclosure of such proprietary business  
76 information could injure an applicant in the marketplace by  
77 giving competitors detailed insight into technical assessments,  
78 design, and experience, thereby putting the applicant at a  
79 competitive disadvantage. Without this exemption, applicants  
80 might be less willing to expend or commit to expend the  
81 substantial resources necessary to determine the feasibility of  
82 establishing, permitting, and operating an underground natural  
83 gas storage facility, resulting in limited opportunities for  
84 developing the additional natural gas storage capacity that this  
85 state critically needs to meet current and future residential,  
86 commercial, and industrial energy needs. The resulting lack of  
87 resources could hinder the ability of electric utility services  
88 to optimize services to their customers and could adversely  
89 affect those customers by depriving them of the opportunities  
90 and energy security that comes with domestic reserves of natural  
91 gas stored underground.

92 (2) Proprietary business information derives actual or  
93 potential independent economic value from not being generally  
94 known to and not being readily ascertainable by other persons  
95 who can derive economic value from its disclosure or use. The  
96 Department of Environmental Protection, in the course of  
97 reviewing and issuing permitting decisions relating to  
98 underground natural gas storage facility permits, may need to  
99 obtain proprietary business information. Disclosure of such



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100 information could destroy the value of that property and could  
101 cause economic harm to the applicant providing the information.  
102 Additionally, the reduced competition for the provision of  
103 domestic underground storage of natural gas could adversely  
104 affect energy utility customers. The exemption created by this  
105 act will enhance the ability to increase domestic storage of  
106 natural gas, thereby creating a significant benefit to energy  
107 utility customers. In finding that the public records exemption  
108 created by this act is a public necessity, the Legislature also  
109 finds that any public benefit derived from disclosure of the  
110 information is significantly outweighed by the public and  
111 private harm that could result from disclosure after submittal  
112 of such proprietary business information.

113 Section 3. This act shall take effect October 1, 2013, if  
114 SB 958 or similar legislation is adopted in the same legislative  
115 session or an extension thereof and becomes a law.

116  
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause  
120 and insert:

121 A bill to be entitled  
122 An act relating to public records; creating s.  
123 377.24075, F.S.; creating an exemption from public  
124 records requirements for certain information provided  
125 in an application for a natural gas storage facility  
126 permit to inject and recover gas into and from a  
127 natural gas storage reservoir; providing for future  
128 review and repeal of the public records exemption



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129        under the Open Government Sunset Review Act; providing  
130        a statement of public necessity; providing a  
131        contingent effective date.