

By the Committee on Environmental Preservation and Conservation;
and Senators Richter and Smith

592-04032-13

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 377.24075, F.S.; creating an exemption from public
4 records requirements for certain information provided
5 in an application for a natural gas storage facility
6 permit to inject and recover gas into and from a
7 natural gas storage reservoir; providing for future
8 review and repeal of the public records exemption
9 under the Open Government Sunset Review Act; providing
10 a statement of public necessity; providing a
11 contingent effective date.

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

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

17 377.24075 Exemption from public records requirements.—
18 Proprietary business information held by the Department of
19 Environmental Protection in accordance with its statutory duties
20 with respect to an application for a natural gas storage
21 facility permit is confidential and exempt from s. 119.07(1) and
22 s. 24(a), Art. I of the State Constitution.

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

25 (a) Is owned or controlled by the applicant or a person
26 affiliated with the applicant.

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

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

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

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

37 1. Trade secrets;

38 2. Leasing plans, real property acquisition plans,
39 exploration budgets, or marketing studies, the disclosure of
40 which would impair the efforts of the applicant or its
41 affiliates to contract for goods or services or to acquire real
42 property interests on favorable terms; or

43 3. Competitive interests, which may include well design or
44 completion plans, geological or engineering studies related to
45 storage reservoir performance characteristics, or field
46 utilization strategies or operating plans, the disclosure of
47 which would impair the competitive business of the applicant
48 providing the information.

49 (f) May be found in a document:

50 1. Filed with the Department of Environmental Protection by
51 the applicant or affiliated person seeking a natural gas storage
52 facility permit pursuant to s. 377.2407; or

53 2. Sent to the Department of Environmental Protection from
54 another governmental entity for use by the department in the
55 performance of its duties. This subparagraph applies only if the
56 information is otherwise confidential or exempt as held by the
57 governmental entity.

58 (2) The Department of Environmental Protection may disclose

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59 confidential and exempt proprietary business information:

60 (a) Pursuant to a court order;

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

63 (c) To another state agency in this or another state or to
64 a federal agency if the recipient agrees in writing to maintain
65 the confidential and exempt status of the document, material, or
66 other information and has verified in writing its legal
67 authority to maintain such confidentiality.

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

72 Section 2. (1) The Legislature finds that it is a public
73 necessity that proprietary business information provided to the
74 Department of Environmental Protection which relates to trade
75 secrets, leasing plans, real property acquisition plans,
76 exploration budgets, proprietary well design or completion
77 plans, geological or engineering studies related to storage
78 reservoir performance characteristics, field utilization
79 strategies or operating plans, commercial or marketing studies,
80 or other proprietary business information provided by a person
81 in conjunction with an application to establish an underground
82 natural gas storage facility as defined in s. 377.19, Florida
83 Statutes, be made confidential and exempt from s. 119.07(1),
84 Florida Statutes, and s. 24(a), Article I of the State
85 Constitution. The disclosure of such proprietary business
86 information could injure an applicant in the marketplace by
87 giving competitors detailed insight into technical assessments,

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88 design, and experience, thereby putting the applicant at a
89 competitive disadvantage. Without this exemption, applicants
90 might be less willing to expend or commit to expend the
91 substantial resources necessary to determine the feasibility of
92 establishing, permitting, and operating an underground natural
93 gas storage facility, resulting in limited opportunities for
94 developing the additional natural gas storage capacity that this
95 state critically needs to meet current and future residential,
96 commercial, and industrial energy needs. The resulting lack of
97 resources could hinder the ability of electric utility services
98 to optimize services to their customers and could adversely
99 affect those customers by depriving them of the opportunities
100 and energy security that comes with domestic reserves of natural
101 gas stored underground.

102 (2) Proprietary business information derives actual or
103 potential independent economic value from not being generally
104 known to and not being readily ascertainable by other persons
105 who can derive economic value from its disclosure or use. The
106 Department of Environmental Protection, in the course of
107 reviewing and issuing permitting decisions relating to
108 underground natural gas storage facility permits, may need to
109 obtain proprietary business information. Disclosure of such
110 information could destroy the value of that property and could
111 cause economic harm to the applicant providing the information.
112 Additionally, the reduced competition for the provision of
113 domestic underground storage of natural gas could adversely
114 affect energy utility customers. The exemption created by this
115 act will enhance the ability to increase domestic storage of
116 natural gas, thereby creating a significant benefit to energy

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117 utility customers. In finding that the public records exemption
118 created by this act is a public necessity, the Legislature also
119 finds that any public benefit derived from disclosure of the
120 information is significantly outweighed by the public and
121 private harm that could result from disclosure after submittal
122 of such proprietary business information.

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