

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

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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, 2019, 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), Article 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

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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, 2014.