

By Senator Margolis

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; revising an exemption from public
 4 records requirements for a financial statement that a
 5 governmental entity or agency requires a person to
 6 submit in order to respond to a competitive
 7 solicitation or as a term or condition of a contract;
 8 providing exceptions; providing for future review and
 9 repeal of the exemption under the Open Government
 10 Sunset Review Act; providing a statement of public
 11 necessity; providing an 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. Paragraph (c) of subsection (1) of section
 16 119.071, Florida Statutes, is amended to read:

17 119.071 General exemptions from inspection or copying of
 18 public records.—

19 (1) AGENCY ADMINISTRATION.—

20 (c) 1. A Any financial statement reflecting a person's
 21 financial activities, which may include, but is not limited to,
 22 a balance sheet, income statement, or cash flow statement that a
 23 governmental entity or an agency requires a person prospective
 24 bidder to submit when in order to prequalify for bidding or for
 25 responding to a competitive solicitation or other public
 26 procurement, or as a term or condition of a contract, proposal
 27 for a road or any other public works project is exempt from s.
 28 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 29 exemption does not apply to a financial statement submitted by a

35-01326-14

20141240__

30 publicly traded corporation or nonprofit organization.

31 2. This paragraph is subject to the Open Government Sunset
32 Review Act in accordance with s. 119.15 and shall stand repealed
33 on October 2, 2019, unless reviewed and saved from repeal
34 through reenactment by the Legislature.

35 Section 2. The Legislature finds that it is a public
36 necessity that a financial statement submitted by a person in
37 order to qualify for or reply to a competitive solicitation, or
38 submitted as a term or condition of a contract, be made exempt
39 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
40 the State Constitution. Many solicitations to provide products
41 or services to governmental entities in the state require
42 persons to submit a financial statement in order to qualify for
43 bidding or to enter into a subsequent contract. However, many
44 innovative, qualified, responsible, and privately held companies
45 keep their financial statements confidential and take extensive
46 measures to prevent their disclosure. When a solicitation
47 requires disclosure of a financial statement that is potentially
48 subject to disclosure to the general public, these companies
49 simply choose not to submit a proposal rather than risk
50 disclosure. The result is a limited pool of proposers. The
51 Legislature finds that holding this material exempt serves the
52 following purposes:

53 (1) Preservation of the government's ability to obtain and
54 examine the financial statement of a person seeking to conduct
55 business with a governmental entity, when relevant, to prove
56 that the person has the capability of delivering products or
57 services as contemplated in the solicitation.

58 (2) Protection for persons required to furnish financial

35-01326-14

20141240__

59 statements to the government by safeguarding them from the
60 competitive disadvantage, or potential for fraudulent credit
61 theft, that could result from disclosure.

62 (3) Assurance that the public receives the benefit of the
63 largest possible pool of qualified, innovative, and responsible
64 persons, including those who hold their financial statements
65 confidential.

66 (4) Alignment of Florida law with federal law and the laws
67 of other states that recognize the need for governmental
68 entities to safeguard financial statements requested of persons
69 responding to competitive solicitations.

70 Section 3. This act shall take effect July 1, 2014.