

20141318e1

1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending s. 287.05712, F.S., relating to qualifying
4 public-private projects for public facilities and
5 infrastructure; defining the term "competitive
6 solicitation"; providing an exemption from public
7 records requirements for unsolicited proposals
8 received by a responsible public entity for a
9 specified period; providing an exemption from public
10 meeting requirements for any portion of a meeting of a
11 responsible public entity during which exempt
12 proposals are discussed; requiring a recording to be
13 made of the closed meeting; providing an exemption
14 from public records requirements for the recording of,
15 and any records generated during, a closed meeting for
16 a specified period; providing for future repeal and
17 legislative review of the exemptions; providing
18 statements of public necessity; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (16) is added to section 287.05712,
24 Florida Statutes, to read:

25 287.05712 Public-private partnerships; public records and
26 public meetings exemptions.-

27 (16) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

28 (a) As used in this subsection, the term "competitive
29 solicitation" has the same meaning as provided in s. 119.071(1).

20141318e1

30 (b)1. An unsolicited proposal received by a responsible
31 public entity is exempt from s. 119.07(1) and s. 24(a), Art. I
32 of the State Constitution until such time as the responsible
33 public entity provides notice of an intended decision for a
34 qualifying project.

35 2. If the responsible public entity rejects all proposals
36 submitted pursuant to a competitive solicitation for a
37 qualifying project and such entity concurrently provides notice
38 of its intent to seek additional proposals for such project, the
39 unsolicited proposal remains exempt until the responsible public
40 entity provides notice of an intended decision concerning the
41 reissued competitive solicitation for the qualifying project or
42 until the responsible public entity withdraws the reissued
43 competitive solicitation for such project.

44 3. An unsolicited proposal is not exempt for longer than 90
45 days after the initial notice by the responsible public entity
46 rejecting all proposals.

47 (c) If the responsible public entity does not issue a
48 competitive solicitation for a qualifying project, the
49 unsolicited proposal ceases to be exempt 180 days after receipt
50 of the unsolicited proposal by such entity.

51 (d)1. Any portion of a board meeting during which an
52 unsolicited proposal that is exempt is discussed is exempt from
53 s. 286.011 and s. 24(b), Art. I of the State Constitution.

54 2.a. A complete recording must be made of any portion of an
55 exempt meeting. No portion of the exempt meeting may be held off
56 the record.

57 b. The recording of, and any records generated during, the
58 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I

20141318e1

59 of the State Constitution until such time as the responsible
60 public entity provides notice of an intended decision for a
61 qualifying project or 180 days after receipt of the unsolicited
62 proposal by the responsible public entity if such entity does
63 not issue a competitive solicitation for the project.

64 c. If the responsible public entity rejects all proposals
65 and concurrently provides notice of its intent to reissue a
66 competitive solicitation, the recording and any records
67 generated at the exempt meeting remain exempt from s. 119.07(1)
68 and s. 24(a), Art. I of the State Constitution until such time
69 as the responsible public entity provides notice of an intended
70 decision concerning the reissued competitive solicitation or
71 until the responsible public entity withdraws the reissued
72 competitive solicitation for such project.

73 d. A recording and any records generated during an exempt
74 meeting are not exempt for longer than 90 days after the initial
75 notice by the responsible public entity rejecting all proposals.

76 (e) This subsection is subject to the Open Government
77 Sunset Review Act in accordance with s. 119.15 and shall stand
78 repealed on October 2, 2019, unless reviewed and saved from
79 repeal through reenactment by the Legislature.

80 Section 2. (1) The Legislature finds that it is a public
81 necessity that an unsolicited proposal received by a responsible
82 public entity pursuant to s. 287.05712, Florida Statutes, be
83 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
84 Article I of the State Constitution until a time certain.
85 Prohibiting the public release of unsolicited proposals until a
86 time certain ensures the effective and efficient administration
87 of the public-private partnership process established in s.

20141318e1

88 287.05712, Florida Statutes. Temporarily protecting unsolicited
89 proposals protects the public-private partnership process by
90 encouraging private entities to submit such proposals, which
91 will facilitate the timely development and operation of a
92 qualifying project. Protecting such information ensures that
93 other private entities do not gain an unfair competitive
94 advantage. The public records exemption preserves public
95 oversight of the public-private partnership process by providing
96 for disclosure of the unsolicited proposal when the responsible
97 public entity provides notice of an intended decision; no longer
98 than 90 days after the responsible public entity rejects all
99 proposals received in a competitive solicitation for a
100 qualifying project; or 180 days after receipt of an unsolicited
101 proposal if such entity does not issue a competitive
102 solicitation for a qualifying project related to the proposal.

103 (2) The Legislature further finds that it is a public
104 necessity that any portion of a meeting of the responsible
105 public entity during which an unsolicited proposal that is
106 exempt from public records requirements is discussed be made
107 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
108 I of the State Constitution. The Legislature also finds that it
109 is a public necessity that the recording of, and any records
110 generated during, a closed meeting be made temporarily exempt
111 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
112 the State Constitution. Failure to close any portion of a
113 meeting during which such unsolicited proposal is discussed, and
114 failure to protect the release of the recording and records
115 generated during that closed meeting, would defeat the purpose
116 of the public records exemption. In addition, the Legislature

20141318e1

117 finds that public oversight is maintained because the public
118 records exemption for the recording and records generated during
119 any closed portion of a meeting of the responsible public entity
120 are subject to public disclosure when such entity provides
121 notice of an intended decision; no longer than 90 days after the
122 responsible public entity rejects all proposals received in a
123 competitive solicitation for a qualifying project; or 180 days
124 after receipt of an unsolicited proposal if the responsible
125 public entity does not issue a competitive solicitation for a
126 qualifying project related to the proposal.

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