

By the Committee on Education; and Senator Montford

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1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending s. 1013.505, F.S., relating to public-private
4 projects for the upgrade of state university
5 facilities and infrastructure; defining the term
6 "proprietary confidential business information";
7 creating an exemption from public records requirements
8 for unsolicited proposals held by a state university
9 board of trustees for a specified period; providing
10 that proprietary confidential business information
11 remains confidential and exempt from public records
12 requirements; creating an exemption from public
13 meetings requirements for portions of meetings of a
14 state university board of trustees at which
15 confidential and exempt information is discussed;
16 providing for future review and repeal of the
17 exemptions under the Open Government Sunset Review
18 Act; providing statements of public necessity;
19 providing a contingent effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
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23 Section 1. Subsection (14) is added to section 1013.505,
24 Florida Statutes, as created by SB 900, 2014 Regular Session, to
25 read:

26 1013.505 Public-private partnerships; state universities
27 and private entities.—

28 (14) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.—

29 (a) As used in this subsection, the term "proprietary

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30 confidential business information” means information that has
31 been designated by a private entity when provided to a state
32 university board of trustees as information that is owned or
33 controlled by the private entity, is intended to be and is
34 treated by the private entity as private and the disclosure of
35 which would harm the business operations of the private entity,
36 has not otherwise been intentionally disclosed by the private
37 entity, and is information concerning:

- 38 1. Trade secrets as defined in s. 688.002;
- 39 2. Financial statements or financing terms;
- 40 3. Patent-pending or copyrighted designs;
- 41 4. Leasing or real property acquisition plans; or
- 42 5. Marketing studies.

43 (b)1. If a board receives an unsolicited proposal under
44 this section, the proposal is confidential and exempt from s.
45 119.07(1) and s. 24(a), Art. I of the State Constitution until
46 such time that the board receives and ranks the proposals as
47 described in subsection (5) and provides notice of its intended
48 decision.

49 2. An unsolicited proposal is not confidential and exempt
50 for more than 90 days after the date the board rejects all
51 proposals received for the project described in the unsolicited
52 proposal or, if the board does not intend to enter into an
53 agreement for the project, the date the unsolicited proposal is
54 received. However, even if the board rejects all proposals or
55 decides not to enter into an agreement for the project described
56 in the unsolicited proposal, any proprietary confidential
57 business information contained in the unsolicited proposal shall
58 remain confidential and exempt from s. 119.07(1) and s. 24(a),

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59 Art. I of the State Constitution.

60 (c)1. A portion of a meeting of a state university board of
61 trustees at which information that is confidential and exempt
62 under paragraph (b) is discussed, is exempt from s. 286.011 and
63 s. 24(b), Art. I of the State Constitution.

64 2. An exempt portion of a meeting shall be recorded and
65 transcribed. The board shall record the times of commencement
66 and termination of the meeting, all discussions and proceedings,
67 the names of all persons present at any time, and the names of
68 all persons speaking. An exempt portion of a meeting may not be
69 off the record.

70 3. A portion of the transcript of a meeting which reveals
71 proprietary confidential business information is confidential
72 and exempt from s. 119.07(1) and s. 24(a), Art. II of the State
73 Constitution.

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

78 Section 2. (1) The Legislature finds that it is a public
79 necessity that an unsolicited proposal held by a state
80 university board of trustees pursuant to s. 1013.505, Florida
81 Statutes, be confidential and exempt from public records
82 requirements until the board provides notification of its
83 decision or its intent to make a decision after ranking
84 proposals under s. 1013.505(5)(c), Florida Statutes. The
85 protection of information contained in unsolicited proposals
86 serves a public need by encouraging private investment in state
87 university facilities and further promotes timely and cost-

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88 effective acquisition, design, construction, improvement,
89 renovation, expansion, equipping, maintenance, operation,
90 implementation, or installation of projects that will be
91 principally used by a state university in serving the
92 university's core mission that may not be satisfied by existing
93 procurement methods. These unsolicited proposals may contain
94 proprietary confidential business information, and, if such
95 information is made publicly available before a state university
96 board of trustees makes a decision regarding a proposal,
97 competitors could determine the creative financing used to fund
98 these projects. If such information is not protected, it may
99 discourage a private entity from providing an unsolicited
100 proposal to a board in order to avoid having proprietary
101 confidential business information and other business information
102 made public. This exemption is narrowly drawn in that an
103 unsolicited proposal is not confidential and exempt for more
104 than 90 days after the date the board rejects all proposals
105 received for the project described in the unsolicited proposal
106 or, if the board does not intend to enter into an agreement for
107 the project, the date the unsolicited proposal is received. An
108 unsolicited proposal may remain confidential and exempt from
109 public records requirements beyond that period only if it
110 contains proprietary confidential business information.

111 (2) The Legislature further finds that it is a public
112 necessity that a portion of a meeting of a state university
113 board of trustees at which information made confidential and
114 exempt from public records requirements under this act is
115 discussed be exempt from public meetings requirements in order
116 to maintain the confidential and exempt status of this

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117 information. Public oversight is preserved by requiring a
118 transcript of any portion of such closed meetings of the board.

119 Section 3. This act shall take effect on the same date that
120 SB 900 or similar legislation takes effect, if such legislation
121 is adopted in the same legislative session or an extension
122 thereof and becomes law.