

By the Committees on Rules; and Education; and Senator Montford

595-04151-14

20141396c2

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:
22

23 Section 1. Subsection (15) 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 (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

28 (a) As used in this subsection, the term "proprietary
29 confidential business information" means information that has

595-04151-14

20141396c2

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

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

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

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

595-04151-14

20141396c2

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

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

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

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

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

595-04151-14

20141396c2

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

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

595-04151-14

20141396c2

117 transcript of any portion of such closed meetings of the board.

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