

By Senator Stargel

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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, a proposal seeking  
 9       research funding from the organization, or a plan or  
 10      program for initiating or supporting research is  
 11      discussed; providing for future legislative review and  
 12      repeal of the exemption under the Open Government  
 13      Sunset Review Act; providing a statement of public  
 14      necessity; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

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 18       Section 1. Subsection (5) of section 1004.28, Florida  
 19       Statutes, is amended to read:

20       1004.28 Direct-support organizations; use of property;  
 21       board of directors; activities; audit; facilities.—

22       (5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC MEETINGS  
 23       EXEMPTION.—

24       (a) Each university direct-support organization shall  
 25       provide for an annual financial audit of its accounts and  
 26       records to be conducted by an independent certified public  
 27       accountant in accordance with rules adopted by the Auditor  
 28       General pursuant to s. 11.45(8) and by the university board of  
 29       trustees. The annual audit report shall be submitted, within 9

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30 months after the end of the fiscal year, to the Auditor General  
31 and the Board of Governors for review. The Board of Governors,  
32 the university board of trustees, the Auditor General, and the  
33 Office of Program Policy Analysis and Government Accountability  
34 ~~may shall have the authority to~~ require and receive from the  
35 organization or from its independent auditor any records  
36 relative to the operation of the organization. The identity of  
37 donors who desire to remain anonymous shall be protected, and  
38 that anonymity shall be maintained in the auditor's report.

39 (b) All records of the university direct-support  
40 organization other than the auditor's report, management letter,  
41 and any supplemental data requested by the Board of Governors,  
42 the university board of trustees, the Auditor General, and the  
43 Office of Program Policy Analysis and Government Accountability  
44 shall be confidential and exempt from ~~the provisions of~~ s.  
45 119.07(1).

46 (c) Any portion of a meeting of the board of directors of  
47 the university direct-support organization, or of the executive  
48 committee or other committees of such board, at which the  
49 identity of a donor or prospective donor, a proposal seeking  
50 research funding from the organization, or a plan or program for  
51 initiating or supporting research is discussed is exempt from s.  
52 286.011 and s. 24(b), Art. I of the State Constitution. This  
53 paragraph is subject to the Open Government Sunset Review Act in  
54 accordance with s. 119.15 and shall stand repealed on October 2,  
55 2019, unless reviewed and saved from repeal through reenactment  
56 by the Legislature.

57 Section 2. (1) The Legislature finds that it is a public  
58 necessity that any portion of a meeting of the board of

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59 directors of a university direct-support organization  
60 established under s. 1004.28, Florida Statutes, or of the  
61 executive committee or other committees of such board, at which  
62 the identity of a donor or prospective donor, a proposal seeking  
63 research funding from the organization, or a plan or program for  
64 initiating or supporting research is discussed be exempt from s.  
65 286.011, Florida Statutes, and s. 24(b), Article I of the State  
66 Constitution.

67 (2) For the benefit of state universities and ultimately  
68 all the people of Florida, university direct-support  
69 organizations serve a vital role in raising donations from  
70 private sources. This undertaking demands great sensitivity and  
71 discretion, as donors frequently request anonymity and are  
72 concerned about the potential release of sensitive financial  
73 information. If a direct-support organization cannot honor those  
74 requests and protect such information from public disclosure, a  
75 potential donor may decline to contribute, thus hampering the  
76 ability of the direct-support organization to carry out its  
77 activities. The state has recognized these realities by making  
78 most of the records of direct-support organizations confidential  
79 and exempt from public records requirements, including the  
80 identity of donors and prospective donors. However, without the  
81 exemption from public meeting requirements, release of the  
82 identity of donors or prospective donors via a public meeting  
83 would defeat the purpose of the public records exemption.

84 (3) The Legislature also finds that the resources raised by  
85 university direct-support organizations are frequently used to  
86 initiate, develop, and fund plans and programs for research,  
87 including university-connected research projects that provide

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88 valuable opportunities for faculty and students and may lead to  
89 future commercial applications. Raising these resources for  
90 research projects requires university direct-support  
91 organizations to develop research strategies and evaluate  
92 proposals for research grants which routinely contain sensitive  
93 or proprietary information, including specific research  
94 approaches and areas of investigation, the disclosure of which  
95 could affect the integrity of those conducting the research. The  
96 ability to retain the confidentiality of research strategies,  
97 plans, and proposals is a hallmark of a responsible funding  
98 process and assures candid exchanges among peer and technical  
99 reviewers as practiced by the National Science Foundation and  
100 the National Institutes of Health. The state has recognized  
101 these realities by expressly making most of the records of the  
102 direct-support organizations in this state confidential and  
103 exempt from public records requirements, including proposals  
104 seeking research funding. Failure to close a meeting during  
105 which research strategies, plans, and proposals are discussed  
106 would significantly undermine the confidentiality of the  
107 strategies, plans, and proposals. Without the exemption from  
108 public meeting requirements, the release during a public meeting  
109 of a proposal seeking research funding from a university direct-  
110 support organization or of a plan or program for initiating or  
111 supporting research would defeat the purpose of the public  
112 records exemption.

113 (4) The Legislature therefore declares that it is a public  
114 necessity that any portion of a meeting of the board of  
115 directors of a university direct-support organization, or of the  
116 executive committee or other committees of such board, at which

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117 the identity of a donor or prospective donor, a proposal seeking  
118 research funding from the organization, or a plan or program for  
119 initiating or supporting research is discussed be exempt from  
120 public meeting requirements.

121 Section 3. This act shall take effect October 1, 2014.