

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 543 Pub. Rec./Public-Private Partnerships/State Universities

SPONSOR(S): Steube

TIED BILLS: HB 541 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	10 Y, 0 N	Thomas	Sherry
2) Government Operations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

HB 543, which is tied to the passage of HB 541, creates an exemption from public records requirements for unsolicited proposals for public-private projects for the upgrade of state university facilities and infrastructure.

The bill exempts unsolicited proposals from public records request for no more than 12 months after the state university board of trustees rejects all proposals received for the project described in the unsolicited proposals. If the board of trustees does not intend to enter into an agreement for the project the unsolicited proposals are exempt from public records request on the date they were received.

The public records exemption is subject to the Open Government Sunset Review Act¹ and must stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

The bill does not appear to have a fiscal impact.

The bill provides a contingent effective date of July 1, 2014. This bill must take effect on the same date that HB 541 or similar legislation takes effect.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

¹ The Open Government Sunset Review Act prescribes a legislative review process for newly created or substantially amended public records or open meeting exemptions. It requires the automatic repeal of such an October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Record Exemptions

The Legislature may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.²

Furthermore, the Open Government Sunset Review Act³ provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.

Effect of Proposed Changes

The bill, which is tied to the passage of HB 541, creates an exemption from public records requirements for unsolicited proposals for public-private projects for the upgrade of state university facilities and infrastructure.

The unsolicited proposals are exempt from public records request for no more than 12 months after the state university board of trustees rejects all proposals received for the project described in the unsolicited proposal. If the board of trustees does not intend to enter into the agreement for the project the unsolicited proposals are exempt from public records request on the date they were received.

The public records exemption is subject to the Open Government Sunset Review Act⁴ and must stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

² Art. I, s. 24(c), Fla. Const.

³ Section 119.15, F.S.

⁴ The Open Government Sunset Review Act prescribes a legislative review process for newly created or substantially amended public records or open meeting exemptions. It requires the automatic repeal of such an October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

Section 1. Amends s. 1013.505, F.S., relating to public-private projects for the upgrade of state university facilities and infrastructure; providing an exemption for public records requirements for unsolicited proposals held by a state university board of trustees for a specified period; providing for future legislative review and repeal of the exemption.

Section 2. Provided a statement of public necessity.

Section 3. Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties to expend funds or to take any action requiring the expenditure of funds, reduce the authority that municipalities or counties have to raise revenues in the aggregate, or reduce the percentage of state tax shared with municipalities or counties.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions; thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.