

A bill to be entitled

An act relating to public records and public meetings; amending s. 287.05712, F.S., relating to qualifying public-private projects for public facilities and infrastructure; providing a definition; providing an exemption from public records requirements for unsolicited proposals received by a responsible public entity for a specified period; providing an exemption from public meeting requirements for any portion of a meeting of a responsible public entity during which exempt proposals are discussed; requiring that a recording be made of the closed meeting; providing an exemption from public records requirements for the recording of, and any records generated during, a closed meeting for a specified period; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

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

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

(16) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

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

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

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

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

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

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

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

56        b. The recording of, and any records generated during, the  
57 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I  
58 of the State Constitution until such time as the responsible  
59 public entity provides notice of an intended decision for a  
60 qualifying project or 180 days after receipt of the unsolicited  
61 proposal by the responsible public entity if such entity does  
62 not issue a competitive solicitation for the project.

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

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

75        (e) This subsection is subject to the Open Government  
76 Sunset Review Act in accordance with s. 119.15 and shall stand  
77 repealed on October 2, 2020, unless reviewed and saved from  
78 repeal through reenactment by the Legislature.

79           Section 2. (1) The Legislature finds that it is a public  
80 necessity that an unsolicited proposal received by a responsible  
81 public entity pursuant to s. 287.05712, Florida Statutes, be  
82 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
83 Article I of the State Constitution until a time certain.  
84 Prohibiting the public release of unsolicited proposals until a  
85 time certain ensures the effective and efficient administration  
86 of the public-private partnership process established in s.  
87 287.05712, Florida Statutes. Temporarily protecting unsolicited  
88 proposals protects the public-private partnership process by  
89 encouraging private entities to submit such proposals, which  
90 will facilitate the timely development and operation of a  
91 qualifying project. Protecting such information ensures that  
92 other private entities do not gain an unfair competitive  
93 advantage. The public records exemption preserves public  
94 oversight of the public-private partnership process by providing  
95 for disclosure of the unsolicited proposal when the responsible  
96 public entity provides notice of an intended decision; no longer  
97 than 90 days after the responsible public entity rejects all  
98 proposals received in a competitive solicitation for a  
99 qualifying project; or 180 days after receipt of an unsolicited  
100 proposal if such entity does not issue a competitive  
101 solicitation for a qualifying project related to the proposal.

102           (2) The Legislature further finds that it is a public  
103 necessity that any portion of a meeting of the responsible  
104 public entity during which an unsolicited proposal that is

105 exempt from public records requirements is discussed be made  
106 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article  
107 I of the State Constitution. The Legislature also finds that it  
108 is a public necessity that the recording of, and any records  
109 generated during, a closed meeting be made temporarily exempt  
110 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
111 the State Constitution. Failure to close any portion of a  
112 meeting during which such unsolicited proposal is discussed, and  
113 failure to protect the release of the recording and records  
114 generated during that closed meeting, would defeat the purpose  
115 of the public records exemption. In addition, the Legislature  
116 finds that public oversight is maintained because the public  
117 records exemption for the recording and records generated during  
118 any closed portion of a meeting of the responsible public entity  
119 are subject to public disclosure when such entity provides  
120 notice of an intended decision; no longer than 90 days after the  
121 responsible public entity rejects all proposals received in a  
122 competitive solicitation for a qualifying project; or 180 days  
123 after receipt of an unsolicited proposal if the responsible  
124 public entity does not issue a competitive solicitation for a  
125 qualifying project related to the proposal.

126 Section 3. This act shall take effect on the same date  
127 that HB 63 or similar legislation takes effect, if such  
128 legislation is adopted in the same legislative session or an  
129 extension thereof and becomes a law.