

By Senator Evers

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 transferring, renumbering, and amending s. 287.05712,
4 F.S., relating to qualifying public-private projects
5 for public facilities and infrastructure; providing a
6 definition; providing an exemption from public records
7 requirements for unsolicited proposals received by a
8 responsible public entity for a specified period;
9 providing an exemption from public meeting
10 requirements for any portion of a meeting of a
11 responsible public entity during which exempt
12 proposals are discussed; requiring that a recording be
13 made of the closed meeting; providing an exemption
14 from public records requirements for the recording of,
15 and any records generated during, a closed meeting for
16 a specified period; providing for future legislative
17 review and repeal of the exemptions; providing a
18 statement of public necessity; providing a contingent
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (15) is added to section 287.05712,
24 Florida Statutes, as transferred, renumbered, and amended by SB
25 ___, to read:

26 255.065 ~~287.05712~~ Public-private partnerships; public
27 records and public meetings exemptions.-

28 (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

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

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30 solicitation” has the same meaning as provided in s. 119.071(1).

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

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

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

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

52 (d)1. Any portion of a meeting of a responsible public
53 entity during which an unsolicited proposal that is exempt is
54 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
55 State Constitution.

56 2.a. A complete recording must be made of any portion of an
57 exempt meeting. No portion of the exempt meeting may be held off
58 the record.

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

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

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

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

82 Section 2. (1) The Legislature finds that it is a public
83 necessity that an unsolicited proposal received by a responsible
84 public entity pursuant to s. 287.05712, Florida Statutes, be
85 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
86 Article I of the State Constitution until a time certain.
87 Prohibiting the public release of unsolicited proposals until a

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88 time certain ensures the effective and efficient administration
89 of the public-private partnership process established in s.
90 287.05712, Florida Statutes. Temporarily protecting unsolicited
91 proposals protects the public-private partnership process by
92 encouraging private entities to submit such proposals, which
93 will facilitate the timely development and operation of a
94 qualifying project. Protecting such information ensures that
95 other private entities do not gain an unfair competitive
96 advantage. The public records exemption preserves public
97 oversight of the public-private partnership process by providing
98 for disclosure of the unsolicited proposal when the responsible
99 public entity provides notice of an intended decision; no longer
100 than 90 days after the responsible public entity rejects all
101 proposals received in a competitive solicitation for a
102 qualifying project; or 180 days after receipt of an unsolicited
103 proposal if such entity does not issue a competitive
104 solicitation for a qualifying project related to the proposal.

105 (2) The Legislature further finds that it is a public
106 necessity that any portion of a meeting of the responsible
107 public entity during which an unsolicited proposal that is
108 exempt from public records requirements is discussed be made
109 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
110 I of the State Constitution. The Legislature also finds that it
111 is a public necessity that the recording of, and any records
112 generated during, a closed meeting be made temporarily exempt
113 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
114 the State Constitution. Failure to close any portion of a
115 meeting during which such unsolicited proposal is discussed, and
116 failure to protect the release of the recording and records

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117 generated during that closed meeting, would defeat the purpose
118 of the public records exemption. In addition, the Legislature
119 finds that public oversight is maintained because the public
120 records exemption for the recording and records generated during
121 any closed portion of a meeting of the responsible public entity
122 are subject to public disclosure when such entity provides
123 notice of an intended decision; no longer than 90 days after the
124 responsible public entity rejects all proposals received in a
125 competitive solicitation for a qualifying project; or 180 days
126 after receipt of an unsolicited proposal if the responsible
127 public entity does not issue a competitive solicitation for a
128 qualifying project related to the proposal.

129 Section 3. This act shall take effect on the same date that
130 SB ___ or similar legislation takes effect, if such legislation
131 is adopted in the same legislative session or an extension
132 thereof and becomes a law.