

By the Committee on Governmental Oversight and Accountability;
and Senator Evers

585-02885-16

2016126c1

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 public-private partnerships for
5 public facilities and infrastructure; providing a
6 definition; providing an exemption from public records
7 requirements for a specified period for unsolicited
8 proposals received by a responsible public entity;
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 a specified
15 period for the recording of, and any records generated
16 during, a closed meeting; providing for future
17 legislative review and repeal of the exemptions;
18 providing a statement of public necessity; providing a
19 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 287.05712,
24 Florida Statutes, as transferred, renumbered, and amended by SB
25 124, 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
30 solicitation" has the same meaning as provided in s. 119.071(1).

31 (b)1. An unsolicited proposal received by a responsible

585-02885-16

2016126c1

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 exempt for no 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.

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

585-02885-16

2016126c1

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 exempt for no 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, 2021, 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. 255.065, Florida Statutes, be made
85 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
86 Article I of the State Constitution for a specified period.
87 Temporarily prohibiting the public release of unsolicited
88 proposals ensures the effective and efficient administration of
89 the public-private partnership process established in s.

585-02885-16

2016126c1

90 255.065, 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; by
100 limiting the exemption to no longer than 90 days after the
101 responsible public entity rejects all proposals received in a
102 competitive solicitation for a qualifying project; or by
103 limiting the exemption to no longer than 180 days after receipt
104 of an unsolicited proposal if such entity does not issue a
105 competitive solicitation for a qualifying project related to the
106 proposal.

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

585-02885-16

2016126c1

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

132 Section 3. This act shall take effect on the same date that
133 SB 124 or similar legislation takes effect, if such legislation
134 is adopted in the same legislative session or an extension
135 thereof and becomes a law.