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1  
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

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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 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.

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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 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

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88 proposals ensures the effective and efficient administration of  
89 the public-private partnership process established in s.  
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

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117 meeting during which such unsolicited proposal is discussed, and  
118 failure to protect the release of the recording and records  
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.