

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 reenacting s. 255.065(15), F.S., which provides
 4 exemptions from public records and public meetings
 5 requirements for unsolicited proposals received by a
 6 responsible public entity, unsolicited proposals
 7 discussed in a portion of a meeting of such an entity,
 8 and the recording of, and any records generated
 9 during, a closed meeting; expanding the exemptions to
 10 incorporate the amendment made to the definition of
 11 the term "responsible public entity" in s. 255.065,
 12 F.S., by HB 607; providing a statement of public
 13 necessity; providing a contingent effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. For the purpose of incorporating the amendment
 18 made to the definition of the term "responsible public entity"
 19 in subsection (1) of section 255.065, Florida Statutes, by HB
 20 607, subsection (15) of that section is reenacted to read:

21 255.065 Public-private partnerships; public records and
 22 public meetings exemptions.—

23 (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.—

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

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

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

40 3. An unsolicited proposal is exempt for no longer than 90
41 days after the initial notice by the responsible public entity
42 rejecting all proposals.

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

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

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

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

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

70 d. A recording and any records generated during an exempt
71 meeting are exempt for no longer than 90 days after the initial
72 notice by the responsible public entity rejecting all proposals.

73 (e) This subsection is subject to the Open Government
74 Sunset Review Act in accordance with s. 119.15 and shall stand
75 repealed on October 2, 2021, unless reviewed and saved from

76 | repeal through reenactment by the Legislature.

77 | Section 2. The Legislature finds that it is a public
78 | necessity that an unsolicited proposal received by a responsible
79 | public entity pursuant to s. 255.065, Florida Statutes, be made
80 | exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
81 | Article I of the State Constitution. The Legislature further
82 | finds that any portion of a meeting of the responsible public
83 | entity during which an unsolicited proposal that is exempt from
84 | public records requirements is discussed be made exempt from s.
85 | 286.011, Florida Statutes, and s. 24(b), Article I of the State
86 | Constitution. The Legislature recognizes that state agencies may
87 | wish to avail themselves of public-private partnerships in order
88 | to tap additional resources to build or develop educational
89 | facilities, transportation facilities, water or wastewater
90 | management facilities and infrastructure, technology
91 | infrastructure, information technology, roads, highways,
92 | bridges, and other public infrastructure and government
93 | facilities within the state which serve a public need and
94 | purpose and may not be wholly satisfied through existing
95 | procurement methods. The Legislature has previously recognized
96 | the important role that public-private partnerships can play in
97 | ensuring the timely and cost-efficient construction or upgrade
98 | of facilities that are used predominantly for public purposes by
99 | authorizing their use by public entities such as counties,
100 | municipalities, school districts, and any other political

101 subdivision of the state; public bodies corporate and politic;
102 and certain regional entities. By authorizing state agencies to
103 enter into public-private partnerships in the same manner as
104 other specified public entities, the Legislature finds that it
105 is a public necessity that state agencies be afforded the same
106 exemptions from public records and public meetings requirements
107 with respect to unsolicited proposals that are received by a
108 state agency or discussed during a portion of a meeting of a
109 state agency. Temporarily protecting unsolicited proposals
110 protects the public-private partnership process by encouraging
111 private entities to submit such proposals without the risk of
112 other private entities accessing the proposals to gain an unfair
113 competitive advantage. The Legislature also finds that the
114 failure to close any portion of a meeting during which an
115 unsolicited proposal is discussed, and failure to protect the
116 release of the recording and records generated during that
117 closed meeting, would defeat the purpose of the public records
118 exemption.

119 Section 3. This act shall take effect on the same date
120 that HB 607 or similar legislation relating to public-private
121 partnerships takes effect, if such legislation is adopted in the
122 same legislative session or an extension thereof and becomes a
123 law.