

By Senator Wright

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1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; providing an exemption for certain  
4       financial information submitted to an agency from  
5       prospective bidders for a road or other public works  
6       project from certain public records requirements;  
7       providing for future legislative review and repeal of  
8       the exemption; amending s. 337.14, F.S.; conforming a  
9       provision to changes made by the act; providing a  
10      statement of public necessity; providing an effective  
11      date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Paragraph (c) of subsection (1) of section  
16       119.071, Florida Statutes, is amended to read:

17       119.071 General exemptions from inspection or copying of  
18       public records.—

19       (1) AGENCY ADMINISTRATION.—

20       (c) Any financial statement or other financial information  
21       required by any department's administrative rules which ~~that~~ an  
22       agency requires a prospective bidder to submit in order to  
23       prequalify for bidding or for responding to a proposal for a  
24       road or any other public works project is exempt from s.  
25       119.07(1) and s. 24(a), Art. I of the State Constitution. This  
26       paragraph is subject to the Open Government Sunset Review Act in  
27       accordance with s. 119.15 and shall stand repealed on October 2,  
28       2029, unless reviewed and saved from repeal through reenactment  
29       by the Legislature.

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30 Section 2. Subsection (1) of section 337.14, Florida  
31 Statutes, is amended to read:

32 337.14 Application for qualification; certificate of  
33 qualification; restrictions; request for hearing.—

34 (1) Any contractor desiring to bid for the performance of  
35 any construction contract in excess of \$250,000 which the  
36 department proposes to let must first be certified by the  
37 department as qualified pursuant to this section and rules of  
38 the department. The rules of the department must address the  
39 qualification of contractors to bid on construction contracts in  
40 excess of \$250,000 and must include requirements with respect to  
41 the equipment, past record, experience, financial resources, and  
42 organizational personnel of the applying contractor which are  
43 necessary to perform the specific class of work for which the  
44 contractor seeks certification. Any contractor who desires to  
45 bid on contracts in excess of \$50 million and who is not  
46 qualified and in good standing with the department as of January  
47 1, 2019, must first be certified by the department as qualified  
48 and must have satisfactorily completed two projects, each in  
49 excess of \$15 million, for the department or for any other state  
50 department of transportation. The department may limit the  
51 dollar amount of any contract upon which a contractor is  
52 qualified to bid or the aggregate total dollar volume of  
53 contracts such contractor is allowed to have under contract at  
54 any one time. Each applying contractor seeking qualification to  
55 bid on construction contracts in excess of \$250,000 shall  
56 furnish the department a statement under oath, on such forms as  
57 the department may prescribe, setting forth detailed information  
58 as required on the application. Each application for

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59 certification must be accompanied by audited, certified  
60 financial statements prepared in accordance with generally  
61 accepted accounting principles and auditing standards by a  
62 certified public accountant licensed in this state or another  
63 state. The audited, certified financial statements must be for  
64 the applying contractor and must have been prepared within the  
65 immediately preceding 12 months. The department may not consider  
66 any financial information of the parent entity of the applying  
67 contractor, if any. The department may not certify as qualified  
68 any applying contractor who fails to submit the audited,  
69 certified financial statements required by this subsection. If  
70 the application or the annual financial statement shows the  
71 financial condition of the applying contractor more than 4  
72 months before the date on which the application is received by  
73 the department, the applicant must also submit interim audited,  
74 certified financial statements prepared in accordance with  
75 generally accepted accounting principles and auditing standards  
76 by a certified public accountant licensed in this state or  
77 another state. The interim financial statements must cover the  
78 period from the end date of the annual statement and must show  
79 the financial condition of the applying contractor no more than  
80 4 months before the date that the interim financial statements  
81 are received by the department. However, upon the request of the  
82 applying contractor, an application and accompanying annual or  
83 interim financial statement received by the department within 15  
84 days after either 4-month period under this subsection are ~~shall~~  
85 ~~be~~ considered timely. An applying contractor desiring to bid  
86 exclusively for the performance of construction contracts with  
87 proposed budget estimates of less than \$2 million may submit

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88 reviewed annual or reviewed interim financial statements  
89 prepared by a certified public accountant. The information  
90 required by this subsection is confidential and exempt from s.  
91 119.07(1). Additionally, any information required by department  
92 rule by any applying contractor is exempt from s. 119.07(1) and  
93 s. 24(a), Art. I of the State Constitution as provided in s.  
94 119.071(1)(c). The department shall act upon the application for  
95 qualification within 30 days after the department determines  
96 that the application is complete. The department may waive the  
97 requirements of this subsection for projects having a contract  
98 price of \$500,000 or less if the department determines that the  
99 project is of a noncritical nature and that the waiver will not  
100 endanger public health, safety, or property.

101 Section 3. The Legislature finds that it is a public  
102 necessity that the financial information required by any  
103 department's administrative rule which prospective bidders are  
104 required to submit in order to prequalify for bidding or in  
105 response to a proposal for any public works project be made  
106 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
107 Article I of the State Constitution. These records may contain  
108 confidential information related to bidders' financial details  
109 and work product which may be used by competitors to gain an  
110 unfair advantage against other bidders of public works projects.  
111 Subjecting such records to public records requirements may  
112 discourage otherwise qualified bidders from placing bids on  
113 vital public works projects.

114 Section 4. This act shall take effect July 1, 2024.