

By Senator Truenow

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1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending ss. 119.071 and 286.0113, F.S.; revising the
4 applicability of public records and public meetings
5 exemptions, respectively, relating to competitive
6 solicitations; amending s. 337.11, F.S.; defining the
7 terms "competitive solicitation" and "team"; providing
8 an exemption from public records requirements for
9 sealed bids, proposals, or replies received and
10 publicly announced by the Department of Transportation
11 pursuant to competitive solicitations for certain
12 contracts; providing an exemption from public meetings
13 requirements for portions of meetings at which
14 negotiations with, oral presentations of, or questions
15 answered by a vendor taking part in a competitive
16 solicitation of the department occur and portions of
17 team meetings at which negotiation strategies are
18 discussed; providing an exemption from public records
19 requirements for recordings of and any records
20 presented at such exempt meetings; providing for
21 future legislative review and repeal of the
22 exemptions; providing statements of public necessity;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (b) of subsection (1) of section
28 119.071, Florida Statutes, is amended to read:
29 119.071 General exemptions from inspection or copying of

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30 public records.—

31 (1) AGENCY ADMINISTRATION.—

32 (b)1. For purposes of this paragraph, "competitive
33 solicitation" means the process of requesting and receiving
34 sealed bids, proposals, or replies in accordance with the terms
35 of a competitive process, regardless of the method of
36 procurement.

37 2. Sealed bids, proposals, or replies received by an agency
38 pursuant to a competitive solicitation are exempt from s.
39 119.07(1) and s. 24(a), Art. I of the State Constitution until
40 such time as the agency provides notice of an intended decision
41 or until 30 days after opening the bids, proposals, or final
42 replies, whichever is earlier.

43 3. If an agency rejects all bids, proposals, or replies
44 submitted in response to a competitive solicitation and the
45 agency concurrently provides notice of its intent to reissue the
46 competitive solicitation, the rejected bids, proposals, or
47 replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of
48 the State Constitution until such time as the agency provides
49 notice of an intended decision concerning the reissued
50 competitive solicitation or until the agency withdraws the
51 reissued competitive solicitation. A bid, proposal, or reply is
52 not exempt for longer than 12 months after the initial agency
53 notice rejecting all bids, proposals, or replies.

54 4. This paragraph does not apply to sealed bids, proposals,
55 or replies received by the Department of Transportation which
56 are exempt from public records requirements pursuant to s.
57 337.11(20)(b).

58 Section 2. Paragraph (d) is added to subsection (2) of

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59 section 286.0113, Florida Statutes, to read:

60 286.0113 General exemptions from public meetings.-

61 (2)

62 (d) This subsection does not apply to portions of meetings
63 of the Department of Transportation which are exempt from public
64 meetings requirements or the recordings of and any records
65 presented at such exempt meetings which are exempt from public
66 records requirements pursuant to s. 337.11(20)(c).

67 Section 3. Subsection (20) is added to section 337.11,
68 Florida Statutes, to read:

69 337.11 Contracting authority of department; bids; emergency
70 repairs, supplemental agreements, and change orders; combined
71 design and construction contracts; progress payments; records;
72 requirements of vehicle registration; public records and
73 meetings exemptions.-

74 (20)(a) For purposes of this section, the term:

75 1. "Competitive solicitation" means the process of
76 requesting and receiving sealed bids, proposals, or replies in
77 accordance with the terms of a competitive process for any
78 contract for the construction or maintenance of any road or
79 other transportation facility placed under the department's
80 supervision by law or for services relating to Florida Turnpike
81 Enterprise toll operations, regardless of the method of
82 procurement.

83 2. "Team" means a group of members established by the
84 department for the purpose of conducting negotiations as part of
85 a competitive solicitation.

86 (b)1. Sealed bids, proposals, or replies received and
87 publicly announced by the department pursuant to a competitive

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88 solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I
89 of the State Constitution until 72 hours after the department
90 provides notice of an intended decision, excluding Saturdays,
91 Sundays, and state holidays, if a notice of protest is not
92 filed; until the deadline to file any formal written protest, if
93 a formal written protest is not filed; or upon the issuance of
94 the department's final order or an appellate court mandate or
95 order resolving the protest, if a formal written protest is
96 filed, whichever occurs later.

97 2. If the department rejects all bids, proposals, or
98 replies submitted in response to a competitive solicitation and
99 the department concurrently provides notice of its intent to
100 reissue the competitive solicitation, such rejected bids,
101 proposals, or replies remain exempt from s. 119.07(1) and s.
102 24(a), Art. I of the State Constitution as provided in
103 subparagraph 1. if the department provides notice of an intended
104 decision concerning the reissued competitive solicitation or
105 until the department withdraws the reissued competitive
106 solicitation. Except as provided in subparagraph 1., a bid,
107 proposal, or reply is not exempt for longer than 12 months after
108 the initial department notice rejecting all bids, proposals, or
109 replies.

110 (c)1.a. Any portion of a meeting at which a negotiation
111 with a vendor is conducted pursuant to a competitive
112 solicitation, at which a vendor makes an oral presentation as
113 part of a competitive solicitation, or at which a vendor answers
114 questions as part of a competitive solicitation is exempt from
115 s. 286.011 and s. 24(b), Art. I of the State Constitution.

116 b. Any portion of a team meeting at which negotiation

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117 strategies are discussed is exempt from s. 286.011 and s. 24(b),
118 Art. I of the State Constitution.

119 2.a. A complete recording must be made of any portion of an
120 exempt meeting. No portion of the exempt meeting may be held off
121 the record.

122 b. The recording of and any records presented at the exempt
123 meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the
124 State Constitution until 72 hours after the department provides
125 notice of an intended decision, excluding Saturdays, Sundays,
126 and state holidays, if a notice of protest is not filed; until
127 the deadline to file any formal written protest, if a formal
128 written protest is not filed; or upon the issuance of the
129 department's final order or an appellate court mandate or order
130 resolving the protest, if a formal written protest is filed,
131 whichever occurs later.

132 c. If the department rejects all bids, proposals, or
133 replies and concurrently provides notice of its intent to
134 reissue a competitive solicitation, the recording of and any
135 records presented at the exempt meeting remain exempt from s.
136 119.07(1) and s. 24(a), Art. I of the State Constitution until
137 such time as the department provides notice of an intended
138 decision concerning the reissued competitive solicitation or
139 until the department withdraws the reissued competitive
140 solicitation. Except as provided in sub-subparagraph b., the
141 recording of and any records presented at an exempt meeting are
142 not exempt for longer than 12 months after the initial
143 department notice rejecting all bids, proposals, or replies.

144 (d) This subsection is subject to the Open Government
145 Sunset Review Act in accordance with s. 119.15 and shall stand

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146 repealed on October 2, 2030, unless reviewed and saved from
147 repeal through reenactment by the Legislature.

148 Section 4. (1) The Legislature finds that it is a public
149 necessity that sealed bids, proposals, or replies received and
150 publicly announced by the Department of Transportation pursuant
151 to a competitive solicitation for any contract for the
152 construction or maintenance of any road or other transportation
153 facility placed under the department's supervision by law or for
154 services relating to Florida Turnpike Enterprise toll operations
155 be made exempt from s. 119.07(1), Florida Statutes, and s.
156 24(a), Article I of the State Constitution for a certain period.
157 Such records must be made available the later of any of the
158 following: 72 hours after the department provides notice of an
159 intended decision, excluding Saturdays, Sundays, and state
160 holidays, if a notice of protest is not filed; upon the deadline
161 to file any formal written protest, if a formal written protest
162 is not filed; or upon the issuance of the department's final
163 order or an appellate court mandate or order resolving the
164 protest, if a formal written protest is filed; or,
165 alternatively, when the department rejects all bids, proposals,
166 or replies and ultimately withdraws a reissued competitive
167 solicitation. Temporarily protecting such information ensures
168 that the process of responding to a competitive solicitation
169 remains fair and economical for vendors, while still preserving
170 oversight after the department's competitive solicitation
171 decision is made or withdrawn.

172 (2) The Legislature also finds that it is a public
173 necessity that a meeting at which a negotiation with a vendor is
174 conducted pursuant to a competitive solicitation and at which

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175 the vendor makes an oral presentation or answers questions as
176 part of the department's competitive solicitation be made exempt
177 from s. 286.011, Florida Statutes, and s. 24(b), Article I of
178 the State Constitution for a certain period. The recording of
179 the meeting and any such records must be made available the
180 later of any of the following: 72 hours after the department
181 provides notice of an intended decision, excluding Saturdays,
182 Sundays, and state holidays, if a notice of protest is not
183 filed; upon the deadline to file any formal written protest, if
184 a formal written protest is not filed; or upon the issuance of
185 the department's final order or an appellate court mandate or
186 order resolving the protest, if a formal written protest is
187 filed; or, alternatively, when the department rejects all bids,
188 proposals, or replies, and ultimately withdraws a reissued
189 competitive solicitation. Protecting such meetings, and
190 temporarily protecting the recording of and any records
191 presented by a vendor at such meetings, ensures that the process
192 of responding to a competitive solicitation remains fair and
193 economical for vendors, while still preserving oversight after
194 the department's competitive solicitation decision is made or
195 withdrawn. It is unfair and inequitable to compel vendors to
196 disclose to competitors the nature and details of their
197 proposals during such meetings or through the minutes or records
198 presented at such meetings. Such disclosure impedes full and
199 frank discussion of the strengths, weaknesses, and value of a
200 bid, proposal, or response, thereby limiting the ability of the
201 department to obtain the best value for the public. The public
202 and private harm arising out of such disclosure outweighs the
203 temporary delay in access to records related to the competitive

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204 solicitation.

205 (3) The Legislature further finds that it is a public
206 necessity that any portion of a team meeting at which
207 negotiation strategies are discussed be made exempt from s.
208 286.011, Florida Statutes, and s. 24(b), Article I of the State
209 Constitution. In addition, it is a public necessity that the
210 recordings of such meetings be made exempt from s. 119.07(1),
211 Florida Statutes, and s. 24(a), Article I of the State
212 Constitution for a certain period. The recording of the meeting
213 must be available the later of any of the following: 72 hours
214 after the department provides notice of an intended decision,
215 excluding Saturdays, Sundays, and state holidays, if a notice of
216 protest is not filed; upon the deadline to file any formal
217 written protest, if a formal written protest is not filed; or
218 upon the issuance of the department's final order or an
219 appellate court mandate or order resolving the protest, if a
220 formal written protest is filed; or, alternatively, when the
221 department rejects all bids, proposals, or replies, and
222 ultimately withdraws a reissued competitive solicitation. Team
223 members often meet to strategize about competitive
224 solicitations. In the absence of such public meetings and public
225 records exemptions, the effective and efficient administration
226 of the department's competitive solicitation process for
227 transportation and toll operations projects would be hindered.

228 Section 5. This act shall take effect July 1, 2025.