

By Senator Margolis

35-00698A-13

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1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           119.071, F.S.; revising an exemption from public  
4           records requirements for any financial statement that  
5           an agency requires a prospective bidder to submit in  
6           order to prequalify for bidding or for responding to a  
7           proposal for a road or public works project; providing  
8           an exemption from public records requirements for any  
9           financial statement that a governmental entity or  
10          agency requires a prospective bidder to submit when  
11          bidding in response to an invitation to bid,  
12          submitting a letter of interest, or responding to a  
13          request for proposals or an invitation to negotiate  
14          pursuant to a public procurement; providing an  
15          exemption from public records requirements for  
16          financial information that a governmental entity  
17          requires a person to submit when responding to a  
18          solicitation; providing an exception; providing for  
19          future legislative review and repeal of the exemption  
20          under the Open Government Sunset Review Act; providing  
21          a statement of public necessity; providing an  
22          effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Paragraph (c) of subsection (1) of section  
27           119.071, Florida Statutes, is amended to read:

28           119.071 General exemptions from inspection or copying of  
29           public records.—

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30 (1) AGENCY ADMINISTRATION.—

31 (c) 1. A Any financial statement that a governmental entity  
32 or an agency requires a prospective bidder to submit when in  
33 order to prequalify for bidding in response to an invitation to  
34 bid, submitting a letter of interest, or for responding to a  
35 request for proposals or an invitation to negotiate pursuant to  
36 a public procurement proposal for a road or any other public  
37 works project is exempt from s. 119.07(1) and s. 24(a), Art. I  
38 of the State Constitution.

39 2. Any financial information that a governmental entity or  
40 agency requires a person to submit when responding to a  
41 solicitation or otherwise is exempt from s. 119.07(1) and s.  
42 24(a), Art. I of the State Constitution. This subparagraph does  
43 not apply to publicly traded companies and nonprofit  
44 organizations.

45 3. This paragraph is subject to the Open Government Sunset  
46 Review Act in accordance with s. 119.15 and shall stand repealed  
47 on October 2, 2018, unless reviewed and saved from repeal  
48 through reenactment by the Legislature.

49 Section 2. It is the finding of the Legislature that it is  
50 a public necessity that a financial statement that a  
51 governmental entity or agency requires a prospective bidder to  
52 submit when bidding in response to an invitation to bid,  
53 submitting a letter of interest, or responding to a request for  
54 proposals or an invitation to negotiate pursuant to a public  
55 procurement be held exempt from public records requirements.  
56 Although it is important to demonstrate financial stability to a  
57 governmental entity or agency making a selection from among  
58 bidders responding to an invitation to bid, individuals and

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59 entities submitting letters of interest, and respondents to  
60 requests for proposals and invitations to negotiate pursuant to  
61 a public procurement, public disclosure of the financial  
62 statement of a prospective bidder or respondent creates an  
63 unfair business advantage for competing firms. Because private  
64 companies and individuals must be able to bid on and compete for  
65 projects without concern that their financial records could be  
66 subject to public scrutiny and, consequently, the scrutiny of  
67 their competitors, it is the finding of the Legislature that a  
68 financial statement that a governmental entity or agency  
69 requires a prospective bidder to submit when bidding in response  
70 to an invitation to bid, submitting a letter of interest, or  
71 responding to a request for proposals or an invitation to  
72 negotiate pursuant to a public procurement be made exempt from  
73 public records requirements.

74 Section 3. This act shall take effect October 1, 2013.