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CS/HB 115

2014 Legislature

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2 An act relating to public meetings; amending s.
3 1004.28, F.S.; providing an exemption from public
4 meeting requirements for any portion of a meeting of
5 the board of directors of a university direct-support
6 organization, or of the executive committee or other
7 committees of such board, at which any proposal seeking
8 research funding from the organization or a plan or
9 program for either initiating or supporting research is
10 discussed; providing for review and repeal of the
11 exemption; providing a statement of public necessity;
12 providing an effective date.

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

15
16 Section 1. Subsection (5) of section 1004.28, Florida
17 Statutes, is amended to read:

18 1004.28 Direct-support organizations; use of property;
19 board of directors; activities; audit; facilities.—

20 (5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC
21 MEETINGS EXEMPTION.—

22 (a) Each direct-support organization shall provide for an
23 annual financial audit of its accounts and records to be
24 conducted by an independent certified public accountant in
25 accordance with rules adopted by the Auditor General pursuant to
26 s. 11.45(8) and by the university board of trustees. The annual

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27 | audit report shall be submitted, within 9 months after the end
28 | of the fiscal year, to the Auditor General and the Board of
29 | Governors for review. The Board of Governors, the university
30 | board of trustees, the Auditor General, and the Office of
31 | Program Policy Analysis and Government Accountability shall have
32 | the authority to require and receive from the organization or
33 | from its independent auditor any records relative to the
34 | operation of the organization. The identity of donors who desire
35 | to remain anonymous shall be protected, and that anonymity shall
36 | be maintained in the auditor's report.

37 | **(b)** All records of the organization other than the
38 | auditor's report, management letter, and any supplemental data
39 | requested by the Board of Governors, the university board of
40 | trustees, the Auditor General, and the Office of Program Policy
41 | Analysis and Government Accountability shall be confidential and
42 | exempt from ~~the provisions of~~ s. 119.07(1).

43 | **(c)** Any portion of a meeting of the board of directors of
44 | the organization, or of the executive committee or other
45 | committees of such board, at which any proposal seeking research
46 | funding from the organization or a plan or program for either
47 | initiating or supporting research is discussed is exempt from s.
48 | 286.011 and s. 24(b), Art. I of the State Constitution. This
49 | paragraph is subject to the Open Government Sunset Review Act in
50 | accordance with s. 119.15 and shall stand repealed on October 2,
51 | 2019, unless reviewed and saved from repeal through reenactment
52 | by the Legislature.

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53 Section 2. The Legislature finds that it is a public
54 necessity that any portion of a meeting of the board of directors
55 of a direct-support organization established under s. 1004.28,
56 Florida Statutes, or of the executive committee or other
57 committees of such board, at which any proposal seeking research
58 funding from the organization or a plan or program for either
59 initiating or supporting research is discussed should be held
60 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I
61 of the State Constitution. The resources raised by direct-support
62 organizations are frequently used to initiate, develop, and fund
63 plans and programs for research that routinely contain sensitive
64 proprietary information, including university-connected research
65 projects, which provide valuable opportunities for faculty and
66 students and may lead to future commercial applications. This
67 activity requires the direct-support organization to develop
68 research strategies and evaluate proposals for research grants
69 that routinely contain sensitive or proprietary information,
70 including specific research approaches and targets of
71 investigation, the disclosure of which could injure those
72 conducting the research. Maintaining the confidentiality of
73 research strategies, plans, and proposals is a hallmark of a
74 responsible funding process, is practiced by the National Science
75 Foundation and the National Institutes of Health, and allows for
76 candid exchanges among reviewers. The state has recognized these
77 realities by expressly making most of the records of direct-
78 support organizations confidential and exempt from the state's

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79 public records requirements, including proposals seeking
80 research funding. Failure to close meetings in which these
81 activities are discussed would significantly undermine the
82 confidentiality of the strategies, plans, and proposals
83 themselves. Without the exemption from public meeting
84 requirements, the release during a public meeting of a proposal
85 seeking research funding from the direct-support organization or
86 a plan or program for either initiating or supporting research
87 would defeat the purpose of the public records exemption. It is
88 therefore the finding of the Legislature that the exemption from
89 public meeting requirements is a public necessity.

90 Section 3. This act shall take effect October 1, 2014.