

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 amending s. 287.05712, F.S., relating to qualifying
 4 public-private projects for public facilities and
 5 infrastructure; providing a definition; providing an
 6 exemption from public records requirements for
 7 unsolicited proposals received by a responsible public
 8 entity for a specified period; providing an exemption
 9 from public meeting requirements for any portion of a
 10 meeting of a responsible public entity during which
 11 exempt proposals are discussed; requiring that a
 12 recording be made of the closed meeting; providing an
 13 exemption from public records requirements for the
 14 recording of, and any records generated during, a
 15 closed meeting for a specified period; providing for
 16 future legislative review and repeal of the
 17 exemptions; providing a statement of public necessity;
 18 providing a contingent effective date.

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 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. Subsection (15) is added to section 287.05712,
 23 Florida Statutes, as transferred, renumbered, and amended by HB
 24 95, to read:

25 255.065 ~~287.05712~~ Public-private partnerships; public
 26 records and public meetings exemptions.—

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

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

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

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

44 3. An unsolicited proposal is not exempt for longer than
45 90 days after the initial notice by the responsible public
46 entity rejecting all proposals.

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

51 (d)1. Any portion of a meeting of a responsible public
52 entity during which an unsolicited proposal that is exempt is

53 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
54 State Constitution.

55 2.a. A complete recording must be made of any portion of
56 an exempt meeting. No portion of the exempt meeting may be held
57 off the record.

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

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

74 d. A recording and any records generated during an exempt
75 meeting are not exempt for longer than 90 days after the initial
76 notice by the responsible public entity rejecting all proposals.

77 (e) This subsection is subject to the Open Government
78 Sunset Review Act in accordance with s. 119.15 and shall stand

79 repealed on October 2, 2021, unless reviewed and saved from
80 repeal through reenactment by the Legislature.

81 Section 2. (1) The Legislature finds that it is a public
82 necessity that an unsolicited proposal received by a responsible
83 public entity pursuant to s. 287.05712, Florida Statutes, be
84 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
85 Article I of the State Constitution until a time certain.

86 Prohibiting the public release of unsolicited proposals until a
87 time certain ensures the effective and efficient administration
88 of the public-private partnership process established in s.
89 287.05712, Florida Statutes. Temporarily protecting unsolicited
90 proposals protects the public-private partnership process by
91 encouraging private entities to submit such proposals, which
92 will facilitate the timely development and operation of a
93 qualifying project. Protecting such information ensures that
94 other private entities do not gain an unfair competitive
95 advantage. The public records exemption preserves public
96 oversight of the public-private partnership process by providing
97 for disclosure of the unsolicited proposal when the responsible
98 public entity provides notice of an intended decision; no longer
99 than 90 days after the responsible public entity rejects all
100 proposals received in a competitive solicitation for a
101 qualifying project; or 180 days after receipt of an unsolicited
102 proposal if such entity does not issue a competitive
103 solicitation for a qualifying project related to the proposal.

104 (2) The Legislature further finds that it is a public

105 necessity that any portion of a meeting of the responsible
106 public entity during which an unsolicited proposal that is
107 exempt from public records requirements is discussed be made
108 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
109 I of the State Constitution. The Legislature also finds that it
110 is a public necessity that the recording of, and any records
111 generated during, a closed meeting be made temporarily exempt
112 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
113 the State Constitution. Failure to close any portion of a
114 meeting during which such unsolicited proposal is discussed, and
115 failure to protect the release of the recording and records
116 generated during that closed meeting, would defeat the purpose
117 of the public records exemption. In addition, the Legislature
118 finds that public oversight is maintained because the public
119 records exemption for the recording and records generated during
120 any closed portion of a meeting of the responsible public entity
121 are subject to public disclosure when such entity provides
122 notice of an intended decision; no longer than 90 days after the
123 responsible public entity rejects all proposals received in a
124 competitive solicitation for a qualifying project; or 180 days
125 after receipt of an unsolicited proposal if the responsible
126 public entity does not issue a competitive solicitation for a
127 qualifying project related to the proposal.

128 Section 3. This act shall take effect on the same date
129 that HB 95 or similar legislation takes effect, if such
130 legislation is adopted in the same legislative session or an

HB 97

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131 | extension thereof and becomes a law.