

By the Committees on Governmental Oversight and Accountability;
and Environmental Preservation and Conservation; and Senators
Richter and Smith

585-04492-13

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 377.24075, F.S.; creating an exemption from public
4 records requirements for certain information provided
5 in an application for a natural gas storage facility
6 permit to inject and recover gas into and from a
7 natural gas storage reservoir; defining the term
8 "proprietary business information"; providing
9 exceptions to the exemption; providing for future
10 review and repeal of the public records exemption
11 under the Open Government Sunset Review Act; providing
12 a statement of public necessity; providing a
13 contingent effective date.

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

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17 Section 1. Section 377.24075, Florida Statutes, is created
18 to read:

19 377.24075 Exemption from public records requirements.-
20 Proprietary business information held by the Department of
21 Environmental Protection in accordance with its statutory duties
22 with respect to an application for a natural gas storage
23 facility permit is confidential and exempt from s. 119.07(1) and
24 s. 24(a), Art. I of the State Constitution.

25 (1) As used in this section, the term "proprietary business
26 information" means information that:

27 (a) Is owned or controlled by the applicant or a person
28 affiliated with the applicant.

29 (b) Is intended to be private and is treated by the

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30 applicant as private because disclosure would harm the applicant
31 or the applicant's business operations.

32 (c) Has not been disclosed except as required by law or a
33 private agreement that provides that the information will not be
34 released to the public.

35 (d) Is not publicly available or otherwise readily
36 ascertainable through proper means from another source in the
37 same configuration as requested by the department.

38 (e) Includes, but is not limited to:

39 1. Trade secrets as defined in s. 688.002;

40 2. Leasing plans, real property acquisition plans,
41 exploration budgets, or marketing studies, the disclosure of
42 which would impair the efforts of the applicant or its
43 affiliates to contract for goods or services or to acquire real
44 property interests on favorable terms; or

45 3. Competitive interests, which may include well design or
46 completion plans, geological or engineering studies related to
47 storage reservoir performance characteristics, or field
48 utilization strategies or operating plans, the disclosure of
49 which would impair the competitive business of the applicant
50 providing the information.

51 (f) May be found in a document:

52 1. Filed with the Department of Environmental Protection by
53 the applicant or affiliated person seeking a natural gas storage
54 facility permit pursuant to s. 377.2407; or

55 2. Sent to the Department of Environmental Protection from
56 another governmental entity for use by the department in the
57 performance of its duties. This subparagraph applies only if the
58 information is otherwise confidential or exempt as held by the

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59 governmental entity.

60 (2) The Department of Environmental Protection may disclose
61 confidential and exempt proprietary business information:

62 (a) Pursuant to a court order;

63 (b) If the applicant to which it pertains gives prior
64 written consent; or

65 (c) To another governmental entity if the receiving entity
66 agrees in writing to maintain the confidential and exempt status
67 of the information and has verified in writing its legal
68 authority to maintain such confidentiality.

69 (3) This section is subject to the Open Government Sunset
70 Review Act in accordance with s. 119.15 and shall stand repealed
71 on October 2, 2018, unless reviewed and saved from repeal
72 through reenactment by the Legislature.

73 Section 2. (1) The Legislature finds that it is a public
74 necessity that proprietary business information provided to the
75 Department of Environmental Protection which relates to trade
76 secrets, leasing plans, real property acquisition plans,
77 exploration budgets, proprietary well design or completion
78 plans, geological or engineering studies related to storage
79 reservoir performance characteristics, field utilization
80 strategies or operating plans, commercial or marketing studies,
81 or other proprietary business information provided by a person
82 in conjunction with an application to establish an underground
83 natural gas storage facility as defined in s. 377.19, Florida
84 Statutes, be made confidential and exempt from s. 119.07(1),
85 Florida Statutes, and s. 24(a), Article I of the State
86 Constitution. The disclosure of such proprietary business
87 information could injure an applicant in the marketplace by

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88 giving competitors detailed insight into technical assessments,
89 design, and experience, thereby putting the applicant at a
90 competitive disadvantage. Without this exemption, applicants
91 might be less willing to expend or commit to expend the
92 substantial resources necessary to determine the feasibility of
93 establishing, permitting, and operating an underground natural
94 gas storage facility, resulting in limited opportunities for
95 developing the additional natural gas storage capacity that this
96 state critically needs to meet current and future residential,
97 commercial, and industrial energy needs. The resulting lack of
98 resources could hinder the ability of electric utility services
99 to optimize services to their customers and could adversely
100 affect those customers by depriving them of the opportunities
101 and energy security that comes with domestic reserves of natural
102 gas stored underground.

103 (2) Proprietary business information derives actual or
104 potential independent economic value from not being generally
105 known to and not being readily ascertainable by other persons
106 who can derive economic value from its disclosure or use. The
107 Department of Environmental Protection, in the course of
108 reviewing and issuing permitting decisions relating to
109 underground natural gas storage facility permits, may need to
110 obtain proprietary business information. Disclosure of such
111 information could destroy the value of that property and could
112 cause economic harm to the applicant providing the information.
113 Additionally, the reduced competition for the provision of
114 domestic underground storage of natural gas could adversely
115 affect energy utility customers. The exemption created by this
116 act will enhance the ability to increase domestic storage of

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117 natural gas, thereby creating a significant benefit to energy
118 utility customers. In finding that the public records exemption
119 created by this act is a public necessity, the Legislature also
120 finds that any public benefit derived from disclosure of the
121 information is significantly outweighed by the public and
122 private harm that could result from disclosure after submittal
123 of such proprietary business information.

124 Section 3. This act shall take effect October 1, 2013, if
125 SB 958 or similar legislation is adopted in the same legislative
126 session or an extension thereof and becomes a law.