

By the Committee on Governmental Oversight and Accountability;
and Senator Stargel

585-02540-14

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1 A bill to be entitled
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
8 seeking research funding from the organization or a
9 plan or program for either initiating or supporting
10 research is discussed; providing for review and repeal
11 of the exemption; providing a statement of public
12 necessity; providing an effective date.

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

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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 MEETINGS
21 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
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

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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.

53 Section 2. The Legislature finds that it is a public
54 necessity that any portion of a meeting of the board of
55 directors of a direct-support organization established under s.
56 1004.28, Florida Statutes, or of the executive committee or
57 other committees of such board, at which any proposal seeking
58 research funding from the organization or a plan or program for

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59 either initiating or supporting research is discussed should be
60 held exempt from s. 286.011, Florida Statutes, and s. 24(b),
61 Article I of the State Constitution. The resources raised by
62 direct-support organizations are frequently used to initiate,
63 develop, and fund plans and programs for research that routinely
64 contain sensitive proprietary information, including university-
65 connected research projects, which provide valuable
66 opportunities for faculty and students and may lead to future
67 commercial applications. This activity requires the direct-
68 support organization to develop research strategies and evaluate
69 proposals for research grants that routinely contain sensitive
70 or proprietary information, including specific research
71 approaches and targets of investigation, the disclosure of which
72 could injure those conducting the research. Maintaining the
73 confidentiality of research strategies, plans, and proposals is
74 a hallmark of a responsible funding process, is practiced by the
75 National Science Foundation and the National Institutes of
76 Health, and allows for candid exchanges among reviewers. The
77 state has recognized these realities by expressly making most of
78 the records of direct-support organizations confidential and
79 exempt from the state's public records requirements, including
80 proposals seeking research funding. Failure to close meetings in
81 which these activities are discussed would significantly
82 undermine the confidentiality of the strategies, plans, and
83 proposals 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

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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.