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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2014	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (16) is added to section 287.05712,
Florida Statutes, to read:

287.05712 Public-private partnerships; public records and
public meetings exemptions.—

(16) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.—

(a) As used in this subsection, the term "proprietary



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11 confidential business information” means information that has
12 been designated by a private entity when provided to a
13 responsible public entity as information that is owned or
14 controlled by the private entity, is intended to be and is
15 treated by the private entity as private and the disclosure of
16 which would harm the business operations of the private entity,
17 has not otherwise been intentionally disclosed by the private
18 entity, and is information concerning:

- 19 1. Trade secrets as defined in s. 688.002;
20 2. Financial statements or financing terms;
21 3. Patent-pending or copyrighted designs;
22 4. Leasing or real property acquisition plans; or
23 5. Marketing studies.

24 (b)1. An unsolicited proposal received by a responsible
25 public entity is confidential and exempt from s. 119.07(1) and
26 s. 24(a), Art. I of the State Constitution until such time that
27 the responsible public entity receives, opens, and ranks the
28 proposals as set forth in paragraph (6)(c) and provides notice
29 of its intended decision.

30 2. An unsolicited proposal is not confidential and exempt
31 for more than 90 days after the date the responsible public
32 entity rejects all proposals submitted as provided in paragraph
33 (6)(c) or the date of receipt of a proposal for a project which
34 the responsible public entity does not intend to enter into an
35 agreement for. If the unsolicited proposal contains information
36 designated by the private entity as proprietary confidential
37 business information, such information shall remain confidential
38 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
39 Constitution.



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40 (c)1. A portion of a meeting of a responsible public entity
41 at which information that is confidential and exempt under
42 paragraph (b) is discussed, is exempt from s. 286.011 and s.
43 24(b), Art. I of the State Constitution.

44 2. An exempt portion of a meeting shall be recorded and
45 transcribed. The responsible public entity shall record the
46 times of commencement and termination of the meeting, all
47 discussions and proceedings, the names of all persons present at
48 any time, and the names of all persons speaking. An exempt
49 portion of a meeting may not be off the record.

50 3. A portion of the transcript of a meeting which reveals
51 proprietary confidential business information is confidential
52 and exempt from s. 119.07(1) and s. 24(a), Art. II of the State
53 Constitution.

54 (d) This subsection is subject to the Open Government
55 Sunset Review Act in accordance with s. 119.15 and shall stand
56 repealed on October 2, 2019, unless reviewed and saved from
57 repeal through reenactment by the Legislature.

58 Section 2. (1) The Legislature finds that it is a public
59 necessity that an unsolicited proposal held by a responsible
60 public entity pursuant to s. 287.05712, Florida Statutes, be
61 made confidential and exempt from s. 119.07(1), Florida
62 Statutes, and s. 24(a), Article I of the State Constitution
63 until such time that the responsible public entity receives,
64 opens, and ranks the proposals set forth in s. 287.05712(6)(c),
65 Florida Statutes, or, if the responsible public entity rejects
66 all proposals or decides not to enter into an agreement, no more
67 than 90 days after such decision. The disclosure of information
68 in an unsolicited proposal, such as financing mechanisms and



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69 terms, formulas, and designs, could give competitors an unfair
70 business advantage by publicizing the proposal's financial
71 strategy and innovative plans, thereby injuring the private
72 entity that submitted the unsolicited proposal and placing the
73 private entity at a competitive disadvantage in the marketplace.
74 Without the exemption, private entities might not submit
75 unsolicited proposals that could provide timely and cost-
76 effective solutions for qualifying projects that serve a public
77 need. The exemption is narrowly drawn in that only proprietary
78 confidential business information in an unsolicited proposal
79 will remain confidential and exempt if such information has not
80 otherwise been made available by a private entity. Therefore,
81 the Legislature finds that the harm that may result from the
82 release of such information outweighs any public benefit that
83 may be derived from disclosure of such the information.

84 (2) The Legislature further finds that, in order to
85 maintain the confidential and exempt status of this information,
86 it is a public necessity that a portion of a meeting of a
87 responsible public entity at which information made confidential
88 and exempt from public records requirements under this act is
89 discussed be made exempt from s. 286.011, Florida Statutes, and
90 s. 24(b), Article I of the State Constitution. Public oversight
91 is preserved by requiring a transcript of any portion of such
92 closed meetings of a responsible public entity.

93 Section 3. This act shall take effect July 1, 2014.

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete everything before the enacting clause



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98 and insert:

99 A bill to be entitled
100 An act relating to public records and meetings;
101 amending s. 287.05712, F.S.; defining the term
102 "proprietary confidential business information";
103 creating an exemption from public records requirements
104 for unsolicited proposals for a qualifying public-
105 private project received by a responsible public
106 entity for a specified period; providing that
107 proprietary confidential business information in an
108 unsolicited proposal remains confidential and exempt
109 from public records requirements; creating an
110 exemption from public meetings requirements for
111 portions of meetings at which confidential and exempt
112 information is discussed; requiring a recording to be
113 made of a closed portion of a meeting; providing for
114 future repeal and legislative review of the
115 exemptions; providing statements of public necessity;
116 providing an effective date.