



639104

LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/29/2014 02:14 PM

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Senator Evers moved the following:

Senate Amendment (with title amendment)

Delete lines 27 - 109

and insert:

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

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



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12 2. If the responsible public entity rejects all proposals
13 submitted pursuant to a competitive solicitation for a
14 qualifying project and such entity concurrently provides notice
15 of its intent to seek additional proposals for such project, the
16 unsolicited proposal remains exempt until the responsible public
17 entity provides notice of an intended decision concerning the
18 reissued competitive solicitation for the qualifying project or
19 until the responsible public entity withdraws the reissued
20 competitive solicitation for such project.

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

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

28 (d)1. Any portion of a board meeting during which an
29 unsolicited proposal that is exempt is discussed is exempt from
30 s. 286.011 and s. 24(b), Art. I of the State Constitution.

31 2.a. A complete recording must be made of any portion of an
32 exempt meeting. No portion of the exempt meeting may be held off
33 the record.

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



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41 c. If the responsible public entity rejects all proposals
42 and concurrently provides notice of its intent to reissue a
43 competitive solicitation, the recording and any records
44 generated at the exempt meeting remain exempt from s. 119.07(1)
45 and s. 24(a), Art. I of the State Constitution until such time
46 as the responsible public entity provides notice of an intended
47 decision concerning the reissued competitive solicitation or
48 until the responsible public entity withdraws the reissued
49 competitive solicitation for such project.

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

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

57 Section 1. (1) The Legislature finds that it is a public
58 necessity that an unsolicited proposal received by a responsible
59 public entity pursuant to s. 287.05712, Florida Statutes, be
60 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
61 Article I of the State Constitution until a time certain.
62 Prohibiting the public release of unsolicited proposals until a
63 time certain ensures the effective and efficient administration
64 of the public-private partnership process established in s.
65 287.05712, Florida Statutes. Temporarily protecting unsolicited
66 proposals protects the public-private partnership process by
67 encouraging private entities to submit such proposals, which
68 will facilitate the timely development and operation of a
69 qualifying project. Protecting such information ensures that



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70 other private entities do not gain an unfair competitive
71 advantage. The public records exemption preserves public
72 oversight of the public-private partnership process by providing
73 for disclosure of the unsolicited proposal when the responsible
74 public entity provides notice of an intended decision; no longer
75 than 90 days after the responsible public entity rejects all
76 proposals received in a competitive solicitation for a
77 qualifying project; or 180 days after receipt of an unsolicited
78 proposal if such entity does not issue a competitive
79 solicitation for a qualifying project related to the proposal.

80 (2) The Legislature further finds that it is a public
81 necessity that any portion of a meeting of the responsible
82 public entity during which an unsolicited proposal that is
83 exempt from public records requirements is discussed be made
84 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
85 I of the State Constitution. The Legislature also finds that it
86 is a public necessity that the recording of, and any records
87 generated during, a closed meeting be made temporarily exempt
88 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
89 the State Constitution. Failure to close any portion of a
90 meeting during which such unsolicited proposal is discussed, and
91 failure to protect the release of the recording and records
92 generated during that closed meeting, would defeat the purpose
93 of the public records exemption. In addition, the Legislature
94 finds that public oversight is maintained because the public
95 records exemption for the recording and records generated during
96 any closed portion of a meeting of the responsible public entity
97 are subject to public disclosure when such entity provides
98 notice of an intended decision; no longer than 90 days after the



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99 responsible public entity rejects all proposals received in a
100 competitive solicitation for a qualifying project; or 180 days
101 after receipt of an unsolicited proposal if the responsible
102 public entity does not issue a competitive solicitation for a
103 qualifying project related to the proposal.

104

105 ===== T I T L E A M E N D M E N T =====

106 And the title is amended as follows:

107 Delete lines 3 - 15

108 and insert:

109 amending s. 287.05712, F.S., relating to qualifying
110 public-private projects for public facilities and
111 infrastructure; defining the term "competitive
112 solicitation"; providing an exemption from public
113 records requirements for unsolicited proposals
114 received by a responsible public entity for a
115 specified period; providing an exemption from public
116 meeting requirements for any portion of a meeting of a
117 responsible public entity during which exempt
118 proposals are discussed; requiring a recording to be
119 made of the closed meeting; providing an exemption
120 from public records requirements for the recording of,
121 and any records generated during, a closed meeting for
122 a specified period; providing for