

By Senator Evers

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 287.05712, F.S., relating to public-private
4 partnerships for the upgrade of public facilities and
5 infrastructure; providing an exemption from public
6 records requirements for unsolicited proposals held by
7 a responsible public entity for a specified period;
8 providing for future review and repeal of the
9 exemption under the Open Government Sunset Review Act;
10 providing a statement of public necessity; providing
11 an effective date.

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

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15 Section 1. Present subsections (14) and (15) of section
16 287.05712, Florida Statutes, are redesignated as subsections
17 (15) and (16), respectively, and a new subsection (14) is added
18 to that section, to read:

19 287.05712 Public-private partnerships.—

20 (14) PUBLIC RECORDS EXEMPTION.—

21 (a) An unsolicited proposal held by a responsible public
22 entity under this section is exempt from s. 119.07(1) and s.
23 24(a), Art. I of the State Constitution until such time that the
24 responsible public entity receives, opens, and ranks the
25 proposals as set forth in paragraph (6)(c).

26 (b) If a responsible public entity rejects all proposals
27 submitted for a qualifying project as provided in paragraph
28 (6)(c) and the entity concurrently provides notice of its intent
29 to seek additional proposals for the qualifying project, the

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30 rejected unsolicited proposal remains exempt from s. 119.07(1)
31 and s. 24(a), Art. I of the State Constitution until such time
32 that the responsible public entity solicits bids and provides
33 notice of a decision or intended decision. An unsolicited
34 proposal is not exempt for more than 12 months after the
35 responsible public entity rejects all proposals submitted as
36 provided in paragraph (6) (c).

37 (c) This subsection is subject to the Open Government
38 Sunset Review Act in accordance with s. 119.15 and shall stand
39 repealed on October 2, 2019, unless reviewed and saved from
40 repeal through reenactment by the Legislature.

41 Section 2. The Legislature finds that it is a public
42 necessity that an unsolicited proposal held by a responsible
43 public entity pursuant to s. 287.05712, Florida Statutes, be
44 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
45 Article I of the State Constitution until such time that the
46 responsible public entity receives, opens, and ranks the
47 proposals as set forth in s. 287.05712(6)(c), Florida Statutes,
48 or, if the responsible public entity rejects all proposals,
49 until the responsible public entity solicits bids for the
50 qualifying project and provides notice of its decision or
51 intended decision. An unsolicited proposal is not exempt for
52 more than 12 months after all proposals are rejected. The
53 disclosure of information in an unsolicited proposal, such as
54 financing mechanisms and terms, formulas, and designs, could
55 give competitors a business advantage by knowing the proposal's
56 financial strategy and innovative plans, thereby injuring the
57 entity that submitted the unsolicited proposal and placing the
58 entity at a competitive disadvantage in the marketplace. Without

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59 the exemption, entities might not submit unsolicited proposals
60 that could provide timely and cost-effective solutions for
61 qualifying projects that serve a public need. Therefore, the
62 Legislature finds that the harm that may result from the release
63 of such information outweighs any public benefit that may be
64 derived from disclosure of the information.

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