

By Senator Steube

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1                   A bill to be entitled  
 2           An act relating to public records and public meetings;  
 3           reenacting s. 255.065(15), F.S., which provides  
 4           exemptions from public records and public meetings  
 5           requirements for unsolicited proposals received by a  
 6           responsible public entity, unsolicited proposals  
 7           discussed in a portion of a meeting of such an entity,  
 8           and the recording of, and any records generated  
 9           during, a closed meeting; expanding the exemptions to  
 10          incorporate the amendment made to the definition of  
 11          the term "responsible public entity" in s. 255.065,  
 12          F.S., by SB \_\_\_; providing a statement of public  
 13          necessity; providing a contingent effective date.

14

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

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17           Section 1. For the purpose of incorporating the amendment  
 18          made to the definition of the term "responsible public entity"  
 19          in subsection (1) of section 255.065, Florida Statutes, by SB  
 20          \_\_\_, subsection (15) of that section is reenacted to read:

21           255.065 Public-private partnerships; public records and  
 22          public meetings exemptions.-

23           (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

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

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

31           2. If the responsible public entity rejects all proposals  
 32          submitted pursuant to a competitive solicitation for a

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33 qualifying project and such entity concurrently provides notice  
34 of its intent to seek additional proposals for such project, the  
35 unsolicited proposal remains exempt until the responsible public  
36 entity provides notice of an intended decision concerning the  
37 reissued competitive solicitation for the qualifying project or  
38 until the responsible public entity withdraws the reissued  
39 competitive solicitation for such project.

40 3. An unsolicited proposal is exempt for no longer than 90  
41 days after the initial notice by the responsible public entity  
42 rejecting all proposals.

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

47 (d)1. Any portion of a meeting of a responsible public  
48 entity during which an unsolicited proposal that is exempt is  
49 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
50 State Constitution.

51 2.a. A complete recording must be made of any portion of an  
52 exempt meeting. No portion of the exempt meeting may be held off  
53 the record.

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

61 c. If the responsible public entity rejects all proposals

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62 and concurrently provides notice of its intent to reissue a  
63 competitive solicitation, the recording and any records  
64 generated at the exempt meeting remain exempt from s. 119.07(1)  
65 and s. 24(a), Art. I of the State Constitution until such time  
66 as the responsible public entity provides notice of an intended  
67 decision concerning the reissued competitive solicitation or  
68 until the responsible public entity withdraws the reissued  
69 competitive solicitation for such project.

70 d. A recording and any records generated during an exempt  
71 meeting are exempt for no longer than 90 days after the initial  
72 notice by the responsible public entity rejecting all proposals.

73 (e) This subsection is subject to the Open Government  
74 Sunset Review Act in accordance with s. 119.15 and shall stand  
75 repealed on October 2, 2021, unless reviewed and saved from  
76 repeal through reenactment by the Legislature.

77 Section 2. The Legislature finds that it is a public  
78 necessity that an unsolicited proposal received by a responsible  
79 public entity pursuant to s. 255.065, Florida Statutes, be made  
80 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
81 Article I of the State Constitution. The Legislature further  
82 finds that any portion of a meeting of the responsible public  
83 entity during which an unsolicited proposal that is exempt from  
84 public records requirements is discussed be made exempt from s.  
85 286.011, Florida Statutes, and s. 24(b), Article I of the State  
86 Constitution. The Legislature recognizes that state agencies may  
87 wish to avail themselves of public-private partnerships in order  
88 to tap additional resources to build or develop educational  
89 facilities, transportation facilities, water or wastewater  
90 management facilities and infrastructure, technology

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91 infrastructure, information technology, roads, highways,  
92 bridges, and other public infrastructure and government  
93 facilities within the state which serve a public need and  
94 purpose and may not be wholly satisfied through existing  
95 procurement methods. The Legislature has previously recognized  
96 the important role that public-private partnerships can play in  
97 ensuring the timely and cost-efficient construction or upgrade  
98 of facilities that are used predominantly for public purposes by  
99 authorizing their use by public entities such as counties,  
100 municipalities, school districts, and any other political  
101 subdivision of the state; public bodies corporate and politic;  
102 and certain regional entities. By authorizing state agencies to  
103 enter into public-private partnerships in the same manner as  
104 other specified public entities, the Legislature finds that it  
105 is a public necessity that state agencies be afforded the same  
106 exemptions from public records and public meetings requirements  
107 with respect to unsolicited proposals that are received by a  
108 state agency or discussed during a portion of a meeting of a  
109 state agency. Temporarily protecting unsolicited proposals  
110 protects the public-private partnership process by encouraging  
111 private entities to submit such proposals without the risk of  
112 other private entities accessing the proposals to gain an unfair  
113 competitive advantage. The Legislature also finds that the  
114 failure to close any portion of a meeting during which an  
115 unsolicited proposal is discussed, and failure to protect the  
116 release of the recording and records generated during that  
117 closed meeting, would defeat the purpose of the public records  
118 exemption.

119 Section 3. This act shall take effect on the same date that

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120 SB \_\_\_ or similar legislation relating to public-private  
121 partnerships takes effect, if such legislation is adopted in the  
122 same legislative session or an extension thereof and becomes a  
123 law.