

By Senator Wright

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1                   A bill to be entitled  
2       An act relating to public records and public meetings;  
3       amending s. 119.0713, F.S.; providing an exemption  
4       from public records requirements for certain  
5       information held by a utility owned or operated by a  
6       unit of local government; providing for retroactive  
7       application; providing for future legislative review  
8       and repeal of the exemption; reenacting s.  
9       286.0113(3), F.S., relating to an exemption from  
10      public meetings requirements for portions of meetings  
11      held by a utility owned or operated by a unit of local  
12      government which would reveal certain information, to  
13      incorporate the amendment made to s. 119.0713, F.S.,  
14      in a reference thereto; providing a statement of  
15      public necessity; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19       Section 1. Subsection (5) of section 119.0713, Florida  
20      Statutes, is amended to read:

21       119.0713 Local government agency exemptions from inspection  
22      or copying of public records.—

23       (5) (a) The following information held by a utility owned or  
24      operated by a unit of local government is exempt from s.  
25      119.07(1) and s. 24(a), Art. I of the State Constitution:

26       1. Information related to the security of the technology,  
27      processes, or practices of a utility owned or operated by a unit  
28      of local government that are designed to protect the utility's  
29      networks, computers, programs, and data from attack, damage, or

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30 unauthorized access, which information, if disclosed, would  
31 facilitate the alteration, disclosure, or destruction of such  
32 data or information technology resources.

33 2. Information related to the security of existing or  
34 proposed information technology systems or industrial control  
35 technology systems of a utility owned or operated by a unit of  
36 local government, which, if disclosed, would facilitate  
37 unauthorized access to, and alteration or destruction of, such  
38 systems in a manner that would adversely impact the safe and  
39 reliable operation of the systems and the utility.

40 3. Information related to threat detection, defense,  
41 deterrence, or response plans and actions for information  
42 technology and operational technology systems of a utility owned  
43 or operated by a unit of local government, including, but not  
44 limited to, plans and actions made or taken in response to a  
45 ransomware attack or other cyberattack on, or threat to,  
46 information technology or operational technology systems.

47 4. Information related to insurance or other risk  
48 mitigation products or coverages, including, but not limited to,  
49 deductible or self-insurance amounts, coverage limits, and  
50 policy terms and conditions for the protection of the  
51 information technology and operational technology systems and  
52 data of a utility owned or operated by a unit of local  
53 government.

54 5. Information created or received by a utility owned or  
55 operated by a unit of local government which has been submitted  
56 for review as, or designated as, critical energy/electric  
57 infrastructure information (CEII) pursuant to federal law by the  
58 Federal Energy Regulatory Commission or the United States

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59 Department of Energy.

60 6. Customer meter-derived data and billing information in  
61 increments less than one billing cycle.

62 (b) This exemption applies to such information held by a  
63 utility owned or operated by a unit of local government before,  
64 on, or after the effective date of this exemption.

65 (c) This subsection is subject to the Open Government  
66 Sunset Review Act in accordance with s. 119.15 and shall stand  
67 repealed on October 2, 2024, unless reviewed and saved from  
68 repeal through reenactment by the Legislature.

69 Section 2. For the purpose of incorporating the amendment  
70 made by this act to section 119.0713, Florida Statutes, in a  
71 reference thereto, subsection (3) of section 286.0113, Florida  
72 Statutes, is reenacted to read:

73 286.0113 General exemptions from public meetings.—

74 (3) (a) That portion of a meeting held by a utility owned or  
75 operated by a unit of local government which would reveal  
76 information that is exempt under s. 119.0713(5) is exempt from  
77 s. 286.011 and s. 24(b), Art. I of the State Constitution. All  
78 exempt portions of such a meeting must be recorded and  
79 transcribed. The recording and transcript of the meeting are  
80 exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I  
81 of the State Constitution unless a court of competent  
82 jurisdiction, following an in camera review, determines that the  
83 meeting was not restricted to the discussion of data and  
84 information made exempt by this section. In the event of such a  
85 judicial determination, only the portion of the recording or  
86 transcript which reveals nonexempt data and information may be  
87 disclosed to a third party.

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88 (b) This subsection is subject to the Open Government  
89 Sunset Review Act in accordance with s. 119.15 and shall stand  
90 repealed on October 2, 2024, unless reviewed and saved from  
91 repeal through reenactment by the Legislature.

92 Section 3. (1) The Legislature finds that it is a public  
93 necessity that information related to threat detection, defense,  
94 deterrence, or response plans and actions for information  
95 technology and operational technology systems of a utility owned  
96 or operated by a unit of local government; information related  
97 to insurance or other risk mitigation products or coverages for  
98 the protection of the information technology and operational  
99 technology systems and data of a utility owned or operated by a  
100 unit of local government; and information created or received by  
101 a utility owned or operated by a unit of local government which  
102 has been submitted for review as, or designated as, critical  
103 energy/electric infrastructure information (CEII) pursuant to  
104 federal law by the Federal Energy Regulatory Commission or the  
105 United States Department of Energy be made exempt from s.  
106 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
107 State Constitution. The Legislature further finds that it is a  
108 public necessity that those portions of meetings held by a  
109 utility owned or operated by a unit of local government which  
110 would reveal such information be made exempt from s. 286.011,  
111 Florida Statutes, and s. 24(b), Article I of the State  
112 Constitution.

113 (2) The Legislature finds that multiple states are  
114 developing rules to better facilitate the exchange of sensitive  
115 information needed to protect critical energy, water, natural  
116 gas, and wastewater infrastructure from cyberattacks and other

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117 threats. As the electric grid continues to integrate more  
118 information and communication technologies and as states look to  
119 partner more closely with utilities on energy assurance and  
120 resiliency, the sensitivity of information being shared and the  
121 threats from increased connectivity will grow. Maintaining safe  
122 and reliable utility systems is vital to protecting the public  
123 health and safety and ensuring the economic well-being of this  
124 state.

125 (3) The Legislature finds that the public and private harm  
126 in disclosing the information under subsection (1) outweighs any  
127 public benefit derived from the disclosure of cybersecurity  
128 threat detection, defense, and informational or operational  
129 technology systems of a utility owned or operated by a unit of  
130 local government. Cyber criminals continually seek information  
131 relating to the insurance coverage or other risk mitigation  
132 products that utilities employ to defend against such attacks.  
133 Critical infrastructure, as well as the assets of such  
134 utilities, should be protected, and the protection of  
135 information under subsection (1) will ensure the sensitive  
136 information held by utilities is not publicly available to be  
137 used against them at a later date.

138 Section 4. This act shall take effect July 1, 2022.