

A bill to be entitled

An act relating to public records and public meetings; amending s. 287.05712, F.S., relating to qualifying public-private projects for public facilities and infrastructure; providing a definition; providing an exemption from public records requirements for unsolicited proposals received by a responsible public entity for a specified period; providing an exemption from public meeting requirements for any portion of a meeting of a responsible public entity during which exempt proposals are discussed; requiring a recording to be made of the closed meeting; providing an exemption from public records requirements for the recording of, and any records generated during, a closed meeting for a specified period; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

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.-

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

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

34 2. If the responsible public entity rejects all proposals
35 submitted pursuant to a competitive solicitation for a
36 qualifying project and such entity concurrently provides notice
37 of its intent to seek additional proposals for such project, the
38 unsolicited proposal remains exempt until the responsible public
39 entity provides notice of an intended decision concerning the
40 reissued competitive solicitation for the qualifying project or
41 until the responsible public entity withdraws the reissued
42 competitive solicitation for such project.

43 3. An unsolicited proposal is not exempt for longer than
44 90 days after the initial notice by the responsible public
45 entity rejecting all proposals.

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

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

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

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

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

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

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

79 Section 2. (1) The Legislature finds that it is a public
80 necessity that an unsolicited proposal received by a responsible
81 public entity pursuant to s. 287.05712, Florida Statutes, be
82 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
83 Article I of the State Constitution until a time certain.
84 Prohibiting the public release of unsolicited proposals until a
85 time certain ensures the effective and efficient administration
86 of the public-private partnership process established in s.
87 287.05712, Florida Statutes. Temporarily protecting unsolicited
88 proposals protects the public-private partnership process by
89 encouraging private entities to submit such proposals, which
90 will facilitate the timely development and operation of a
91 qualifying project. Protecting such information ensures that
92 other private entities do not gain an unfair competitive
93 advantage. The public records exemption preserves public
94 oversight of the public-private partnership process by providing
95 for disclosure of the unsolicited proposal when the responsible
96 public entity provides notice of an intended decision; no longer
97 than 90 days after the responsible public entity rejects all
98 proposals received in a competitive solicitation for a
99 qualifying project; or 180 days after receipt of an unsolicited
100 proposal if such entity does not issue a competitive
101 solicitation for a qualifying project related to the proposal.

102 (2) The Legislature further finds that it is a public
103 necessity that any portion of a meeting of the responsible
104 public entity during which an unsolicited proposal that is

105 exempt from public records requirements is discussed be made
106 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
107 I of the State Constitution. The Legislature also finds that it
108 is a public necessity that the recording of, and any records
109 generated during, a closed meeting be made temporarily exempt
110 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
111 the State Constitution. Failure to close any portion of a
112 meeting during which such unsolicited proposal is discussed, and
113 failure to protect the release of the recording and records
114 generated during that closed meeting, would defeat the purpose
115 of the public records exemption. In addition, the Legislature
116 finds that public oversight is maintained because the public
117 records exemption for the recording and records generated during
118 any closed portion of a meeting of the responsible public entity
119 are subject to public disclosure when such entity provides
120 notice of an intended decision; no longer than 90 days after the
121 responsible public entity rejects all proposals received in a
122 competitive solicitation for a qualifying project; or 180 days
123 after receipt of an unsolicited proposal if the responsible
124 public entity does not issue a competitive solicitation for a
125 qualifying project related to the proposal.

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